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International Conciliation

SEPTEMBER, 1946 · NO. 423

THE CONTROL OF ATOMIC ENERGY

PROPOSALS BEFORE THE UNITED NATIONS ATOMIC ENERGY COMMISSION AND UNOFFICIAL PLANS

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

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Subscription price 25 cents for one year, one dollar for five years. Single copies 5 cents.
Published monthly, except July and August
Reentered as second-class matter January 15, 1945, at the post office
at New York, N. Y., under the act of March 3, 1879

PREFACE

The twelve-nation commission established by the General Assembly of the United Nations in January, 1946, "to deal with the problems raised by the discovery of atomic energy and other related matters," held its first session in New York on June 14 last. Discussion in the Commission's meetings centered upon the comprehensive plans of Mr. Bernard M. Baruch, representative of the United States, and of Mr. Andrei A. Gromyko, representative of the Union of Soviet Socialist Republics, along with the proposals of Mr. Herbert V. Evatt of Australia. The texts of these proposals are published in this issue of *International Conciliation*. Supplementing these statements of government representatives in the United Nations Commission on Atomic Energy are the contributions to the clarification of the problem of international control of atomic energy prepared by unofficial groups, two of which, a University of Chicago Committee and the Carnegie Endowment Committee on Atomic Energy, made concrete suggestions in the form of draft conventions. These documents are also republished here in accordance with the expressed desire of the Secretary of State that there be the fullest possible public discussion of a problem which opened such vast and new perspectives and one upon the solution of which so much depends.

Dr. James T. Shotwell, Director of the Division of Economics and History of the Carnegie Endowment and Chairman of its Committee on Atomic Energy, has contributed an introduction outlining developments to date.

NICHOLAS MURRAY BUTLER

New York, August 30, 1946.

THE UNITED NATIONS ATOMIC ENERGY COMMISSION

INTRODUCTION

By James T. Shotwell

The Washington and Moscow Conferences

The history of the international control of atomic energy began, almost inevitably, in the shaping of the policy of the nation which produced the bomb. It was not, however, until the twenty-seventh of October, 1945,[1] that President Truman indicated the program which the Government of the United States would attempt to work out in cooperation with other governments. While emphasizing the continued need for international armaments (the President was speaking on the occasion of Navy Day), he indicated a genuine anxiety to proceed with the new international problems "with greater speed, with greater determination, and with greater ingenuity" than in the past. The answer to the problems created by the release of atomic energy must be found "in partnership" with all the peoples of the United Nations. Nevertheless the United Nations had not yet been organized; therefore in order to gain time as well as to insure systematic progress, the United States would first undertake a discussion of the atomic bomb with Great Britain and Canada. This negotiation would be preliminary to others. There was a veiled reference to a plan for negotiating with the Union of Soviet Socialist Republics as well, prior to the meeting of the United Nations in January, 1946. This was made good at the Three-Power Conference in Moscow, December 16-26, 1945.

The first step in the fulfilment of this program was the meeting of the Prime Ministers of the United Kingdom and Canada, Mr. Attlee and Mr. King, with President Truman at Washington in the second week of November, 1945. At this Conference a line was definitely drawn between the free exchange of scientific

[1] Department of State *Bulletin*. See *International Conciliation*, December, 1945, p. 779 ff.

information for peaceful ends and "the spreading of the specialized information regarding the practical application of atomic energy, before it is possible to devise effective, reciprocal, and enforceable safeguards acceptable to all nations." This distinction was further developed in a series of recommendations to be made to the United Nations organization. The first of these called for a wide international "exchange of basic scientific information for peaceful ends." The second proposal, which naturally followed this, was "for control of atomic energy to the extent necessary to insure its use only for peaceful purposes." The third item in the program turned to the other half of the problem, with a provision "for the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction." Following this preventive measure came means of "effective safeguards by way of inspection and other means to protect complying States against the hazards of violations and evasions."

The method of work would be determined by the nature of the problems as here set forth. "The work of the Commission should proceed by separate stages, the successful completion of each one of which will develop the necessary confidence of the world before the next stage is undertaken."

This much of the program of the Washington Conference was taken over literally by the Moscow Conference which followed a month later, and, unchanged, became the terms of reference of the Commission of the United Nations.

There was, however, one additional sentence in the Washington Conference communiqué which was not repeated in the Moscow or subsequent documents. The Washington communiqué went on to make more definite the reference to "the separate stages in the work of the Commission," indicating, in general terms, the order in which these stages should be taken up. "Specifically, it is considered that the Commission might well devote its attention first to the wide exchange of scientists and scientific information, and as a second stage, to the development of full knowledge concerning national resources of raw materials."

This suggestion in the Washington communiqué of the order in which the international cooperation in the control of atomic

energy should proceed was implied as well in the earlier paragraphs of the document, in which the three heads of governments stated that they were "not convinced that the spreading of the specialized information regarding the practical application of atomic energy, before it is possible to devise effective, reciprocal, and enforceable safeguards acceptable to all nations, would contribute to the constructive solution of the problem of the atomic bomb." Nevertheless, they stated their readiness "to share on a reciprocal basis with others of the United Nations detailed information concerning the practical application of atomic energy just as soon as the effective, enforceable safeguards against its use for destructive purposes can be devised." There was no objection on the part of the Prime Ministers of Great Britain or Canada to this procedure, because for one thing, they were fully convinced that there would be no misuse of "the secret" by the Government of the United States in the interval during which the exchange of scientific information was taking place. Nevertheless, it became evident later that Soviet Russia did not share this confidence to the full.

The Moscow Conference of the Foreign Ministers of the Union of Soviet Socialist Republics, the United Kingdom, and the United States, which met a month after the Washington Conference, was primarily concerned with the peace settlement in eastern Europe and in eastern Asia. It was only at its close that it came to grips with the problem of atomic energy.

Nevertheless, there seems to have been no serious disagreement or conflicting arguments when the conclusions of the Washington Conference were examined by Mr. Molotov and his staff. This at least was the impression carried away by Secretary of State Byrnes who, after his return from Moscow on December 30, made the following public statement describing the negotiations in detail:

> The British and ourselves came to Moscow with a very definite proposal for the establishment by the United Nations of a Commission on atomic energy and related matters, based on the Washington declaration of the President of the United States and the Prime Ministers of Great Britain and Canada on that subject. At the request of the Soviet Government the discussion of our proposal was placed at the end of our agenda. Our discussions were limited to this proposal. At no time did we discuss any

technical or scientific matters; nor were we asked by the Soviet Government about the new weapon. I was happy to find that the Soviet Government feels as we do that this particular weapon is of such a revolutionary nature that we should explore through a United Nations Commission methods of international control.

It should be understood that the task of the Commission is to inquire into the problems raised by the discovery of atomic energy and related matters and to make recommendations. Neither the Security Council nor the Commission has authority to bind any government to act on its recommendations.

The four objectives set forth in the proposed resolution establishing the Commission are not intended to indicate the order in which they are to be considered. In particular, it was intended and is understood that the matter of safeguards will apply to the recommendations of the Commission in relation to every phase of the subject and at every stage. Indeed, at the root of the whole matter lies the problem of providing the necessary safeguards.

Neither we nor any other nation would be expected to share our armament secrets until it was certain that effective safeguards had been developed to insure our mutual protection.

The Soviet Government offered only a few amendments to the proposal submitted by us. These amendments were designed to clarify the relations of the Commission to the Security Council. With some revisions we accepted them.

Carefully examined, these amendments will be found to go no further than appropriate to enable the Security Council to exercise its primary responsibility for maintenance of peace and security.

The Security Council can give directions to the Commission, and restrain publication of reports detrimental to peace and security, but such action can be taken only with the concurrence of all its permanent members. Failure of the Security Council to act cannot block the work of the Commission.

The three Governments have invited France, China, and Canada to join us in submitting the proposed resolution to the Assembly of the United Nations.

Before Mr. Byrnes returned to Washington, however, several Senators expressed their concern over the Moscow program, for fear that it had not sufficiently safeguarded the secret of the atomic weapon, because no specific reference was made in the Moscow communiqué to this central part of the problem.

After consultation, however, with President Truman and Under Secretary of State Acheson, the matter was explained to their

satisfaction, and Senator Vandenberg issued the following statement on December 28:

I would not be able to agree that the problem can be handled by separate and unrelated stages. I particularly share what I believe to be the general Congressional opinion that any disclosures regarding the atomic bomb should be part of a complete plan for adequate world-wide inspection and control. For these reasons I have sought additional official information today regarding the program announced in the Moscow communiqué.

I am advised by the State Department that while the communiqué listed four separate objectives, with inspection and control listed last, it is not intended that these objectives should be taken in the order indicated but that it is intended that the four shall be read together and that each shall be accompanied by full security requirements—all being finally subject to Congressional approval.

Again on January 7, on the point of departure for a meeting of the United Nations in London, Secretary Byrnes issued another statement in which he gave still further reassurance. This statement read as follows:

In accordance with usual practice, the resolution as to the control of atomic energy will undoubtedly be referred to a committee and our representatives will have ample opportunity to make certain that there is no misunderstanding as to the purpose, scope, and operation of the commission.

The phases of the problem which the commission is to inquire into are the phases of the problem raised by the discovery of atomic energy referred to in the opening sentence of the proposed resolution. The problem referred to was not how atomic energy is produced, but how it shall be controlled in the interest of peace. I do not see how the language used can possibly be construed to give the commission authority to obtain information which is not publicly available or which is not voluntarily given to it.

Under the United Nations Charter neither the Assembly nor any commission created by it has authority to compel action on the part of any State. The language of the resolution makes clear that even as to the exchange of basic scientific information for peaceful purposes the commission has authority only to make recommendations.

While our delegation to the Assembly may vote to authorize a study by a commission of the international problems raised by the discovery of atomic energy, such action could not give to the commission the authority to decide what information the United States or any other government should place at its disposal.

If the commission, upon which the United States is represented,

recommended the exchange of any stated information, this recommendation would go to the Security Council. Action by the Security Council requires the concurrence of the five permanent members, including the United States. Therefore, unless the United States concurs in the recommendation it could not be adopted.

If the United States concurred and the Security Council adopted the recommendation, it would still be for the Government of the United States by treaty or by Congressional action to determine to what extent that recommendation should be acted upon. If action is required by treaty it would take a two-thirds vote of the Senate to ratify the treaty. Under all these circumstances I think the interests of the United States are fully protected.

An examination of this statement shows that the order of procedure in the work of the Atomic Energy Commission was apparently regarded as a secondary matter in the Moscow negotiations. The main thing, apparently, was to secure the agreement with the Soviet Government for the erection of the Commission on Atomic Energy under the Security Council of the United Nations. The discussion seems to have centered on the relation of the Atomic Energy Commission to the Security Council.

The problem of what the Atomic Energy Commission should deal with first was not referred to by Mr. Byrnes in this statement, who naturally took it for granted that the erection of "effective safeguards" would precede the sharing of "our armament secret." This interpretation of the Moscow negotiations did not, however, prove to be the same as that of the Soviet Government. For the question still to be answered was whether the effective safeguards would be wholly or at least dominantly international, or whether they would rest for the greater part within the control of each of the signatory nations.

The Creation of the United Nations Atomic Energy Commission

The Charter of the United Nations furnished no clue as to the appropriate method for dealing with the control of atomic energy, because when the Charter was drafted no such problem existed. Even the scientists who had been at work in secret on the atomic bomb did not know whether they would be successful or not until the Los Alamos trial explosion on July 16, 1945, and the rest of

the world remained in ignorance until after the explosion over Hiroshima on August 5. Therefore, the United Nations had to create new subsidiary organs[2] for the control of atomic energy, fitting them into the existing structure so that they would function under the General Assembly and the Security Council, and yet have sufficient freedom of action to exercise efficient control.

The Moscow Conference went to the heart of the matter by recognizing the dual nature of the control which would have to be exercised by the United Nations both as a military weapon and as a peaceful instrument for the furtherance of human welfare. In dealing with the elimination or control of the dangerous uses of atomic energy, the Commission would necessarily function as an organ of the Security Council. On the other hand, the Commission would naturally recognize the interest of the General Assembly and particularly that of the Economic and Social Council in the development of the peaceful uses of atomic energy. It was recognized, however, that the first and most pressing need was the elimination of the danger of the atomic weapon, and therefore the first activities of the Commission would be those in connection with the work of the Security Council.

To meet this situation, the Moscow Conference set up what at first sight seems to be a rather complicated procedure. The three powers composing the Conference—the Union of Soviet Socialist Republics, the United Kingdom, and the United States—took the initiative by inviting the other permanent members of the Security Council, France and China, along with Canada (because of its share in the early phases of the development of atomic energy), to sponsor a resolution at the first session of the General Assembly calling upon the Assembly to create the United Nations Atomic Energy Commission. In this way, the Commission would owe its origin to the joint action of all the United Nations and not merely to the great powers. In its actual work, however, the Commission would have to submit its reports and recommendations to the Security Council first, which would then determine what

[2] The Charter of the United Nations authorized either the Assembly (Art. 22) or the Council (Art. 29) to "establish such subsidiary organs as it deems necessary for the performance of its functions."

would be done about them, whether they should be kept secret or published. "In appropriate cases the Security Council should transmit these reports to the General Assembly and the Members of the United Nations, as well as to the Economic and Social Council, and other organizations within the framework of the United Nations." In reality this procedure is relatively simple, although it may prove difficult to apply. Purely military activities remain within the jurisdiction of the Security Council. All others are to be open for discussion by the appropriate bodies.

The way in which this decision of the Moscow Conference was actually brought before the first meeting of the United Nations Assembly was clearly summarized by Secretary Byrnes in his Report to the President on the work of the American Delegation at the Assembly.[3]

Pursuant to the agreement reached in December, 1945, at the Moscow Conference of the Foreign Ministers of the United Kingdom, the United States, and the Soviet Union, and to subsequent negotiations, the British Government, acting on behalf of the five permanent members of the Security Council and Canada, on January 4 proposed that the resolution drafted at Moscow relating to the establishment of a commission for the control and use of atomic energy be added to the Agenda of the General Assembly.

Mr. Attlee underlined the importance of the establishment of the proposed Commission in his address of welcome to the Assembly on January 10, and the head of the United States Delegation, Secretary Byrnes, in opening the general debate on the report of the Preparatory Commission at the Seventh Plenary Meeting on January 14, said:

"We have another task of transcending importance. The establishment of a commission to deal with the problems raised by the discovery of atomic energy is inseparably linked with the problem of security. It is a matter of primary concern to all nations. We must not fail to devise the safeguards necessary to insure that this great discovery is used for human welfare and not for more deadly human warfare."

The Assembly referred the establishment of the proposed Commission to its Political and Security Committee which considered the proposal

[3] *Report of the United States Delegation to the First Part of the First Session of the General Assembly of the United Nations*, London, England, January 10–February 14, 1946, submitted to the President of the United States by the Secretary of State in Washington, D. C., March 1, 1946. Department of State, Publication 2484, Conference Series 82, United States Government Printing Office, Washington, 1946.

resolution at its second and third meetings on January 21 and January 22. The brief debate was opened by Senator Connally, the United States Representative on this Committee. At the end of the meeting of January 21, the resolution was approved without change by forty-six votes to none, with one abstention. After a further brief debate on the following day, the First Committee on January 23 approved unanimously the report of the Rapporteur on the establishment of the Commission.

On January 24 the report and resolution authorizing the Commission on Atomic Energy were approved in the General Assembly with no dissenting votes.

The text of the Assembly Resolution establishing the Commission on Atomic Energy is given below (pages 333–4).

The Lilienthal Report

Some months passed after the creation of the United Nations Commission on Atomic Energy before all the countries represented on it had appointed their delegates to it. It was not until March 18, 1946, that President Truman appointed Mr. Bernard M. Baruch as the American representative on the Commission. Meanwhile, however, the State Department had gone ahead with its own plans for a program on the international control of atomic energy, paralleling the work of the McMahon Committee in the Senate which dealt with the problem of domestic control.[4] On January 7, just before leaving for the London meeting, Secretary Byrnes set up a State Department Committee on Atomic Energy with Dean Acheson, Under Secretary of State, as chairman. The other members of this Committee were Dr. Vannevar Bush and Dr. James B. Conant of the Office of Scientific Research and Development, Major General Leslie R. Groves, head of the Manhattan District Project, the organization which produced the bomb, and Mr. John J. McCloy, formerly Assistant Secretary of War.

On January 23, this Committee appointed a Board of Consultants with the following members:

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[4] Senate Document, 79th Congress, Second Session, Calendar No. 1251, *Atomic Energy Act of 1946*. This document is one of the best reference pamphlets dealing with the history and practical problems in the control of atomic energy, and contains an excellent bibliography. The McMahon Bill, with modifications accepted in the Senate-House Conference Committee, finally became law on August 1, 1946

Mr. David E. Lilienthal, Chairman of the Tennessee Valley Authority, who acted as chairman of the consulting Board,
Mr. Chester I. Barnard, President of the New Jersey Bell Telephone Company,
Dr. J. Robert Oppenheimer, of the California Institute of Technology and the University of California,
Dr. Charles Allen Thomas, Vice-President and Technical Director, Monsanto Chemical Company, and
Mr. Harry A. Winne, Vice President in Charge of Engineering Policy, General Electric Company.

The Report of this Board of Consultants was published by the State Department on March 16,[5] with a foreword by the Secretary of State which, after paying tribute to "the intensive work which this document reflects and the high qualifications of the men who were concerned with it," stated that it was to be regarded as a "suitable starting point for the informed public discussion which is one of the essential factors in developing sound policy. The document is being made public not as a statement of policy but solely as a basis for such discussion." In spite of this disclaimer, the "Lilienthal Report" was popularly regarded as carrying with it the full authority of the State Department, a fact which to some extent tended to lessen Mr. Baruch's freedom of action in his own choice of the proposals to be offered to the United Nations Commission.

The main contributions of the Lilienthal document were the proposals that an Atomic Development Authority be established to own all uranium and thorium in the world, as well as to control the activities in connection with their radioactive properties. The Report concluded with a section on the transition from present conditions to those under which the Authority would have complete control. It outlined a series of steps by which the "present American advantage" might be preserved while other nations were proceeding with the solution of both the scientific and industrial problems involved. While admitting that "these questions lie in the domain of the highest national policy in international

[5] Department of State Publication 2498.

relations," it went on to suggest that the Authority begin its operations by making a geological survey of raw materials and other technical and scientific problems, and that "the secret" (a term which it did not use) should not be wholly revealed until an effective international control had been established.

It is impossible in this connection to do more than call attention to these two outstanding proposals in the Lilienthal Report, but the development of the negotiations on the control of atomic energy in the United Nations Commission was influenced to a major degree by this important document.

The United Nations Commission at Work

The United Nations Commission on Atomic Energy, fully constituted, finally held its first meeting on June 14, 1946, at the seat of the Security Council at Hunter College, New York City. It was significant that, with few exceptions, the delegates of the twelve nations represented on the Commission were statesmen or experienced men of affairs rather than scientists. The problem to be dealt with was that of national security, of war and peace—how to control, not how to produce, atomic power.

Following the custom of diplomacy, the initial chairmanship of the Commission was held by the representative of the United States. Then it was held in rotation for a month at a time by the representatives of the different nations, arranged as far as possible in alphabetical order.

In his opening address, Mr. Baruch covered the field of the control of atomic energy in a comprehensive and illuminating survey. It is a statement which will rank high in the literature of international debate, both for its elevation of thought and eloquence of expression. Carried by the radio to all corners of the world, it made an appeal to the conscience of mankind with an inescapable challenge to choose either "world peace or world destruction."

> Against the degradation of war we can erect a safeguard. That is the guerdon for which we reach. Within the scope of the formula we outline here, there will be found, to those who seek it, the essential elements of our purpose. Others will see only emptiness. Each of us carries his own mirror in which is reflected hope—or determined desperation—courage or cowardice.

There is a famine throughout the world today. It starves men's bodies. But there is a greater famine—the hunger of men's spirit. That starvation can be cured by the conquest of fear, and the substitution of hope, from which springs faith—faith in each other; faith that we want to work together toward salvation; and determination that those who threaten the peace and safety shall be punished.

The practical measures which Mr. Baruch proposed in the Fourteen Points of his plan for the establishment of an International Atomic Development Authority cover too many details to be discussed here.

In general the program resembles that of the Lilienthal Report, but with items drawn from the contributions of unofficial bodies and public discussion in the United States during the preceding months. The International Atomic Development Authority is given a broader base than in the Lilienthal Report, which held rigidly to the conception of international ownership. The first point in the Baruch plan widens this conception to cover all forms of control. "The Authority should set up a thorough plan for control of the field of atomic energy, through various forms of ownership, dominion, licenses, operation, inspection, research, and management by competent personnel." The first activity of the Authority would be to survey the world supplies of uranium and thorium, and it would have a complete monopoly of the production of fissionable materials, controlling research in the field of atomic explosives by licensing other authorities for the exploitation of pacific, nondangerous activities. The plan would involve international inspection, and that in turn would call for freedom of access by the representatives of the Authority to any part of any country, whenever the Authority deemed it necessary. The system would be set up by stages, and only after the plan of control was working satisfactorily would the United States make available information beyond that essential to a reasonable understanding of the proposals which it advocates.

Fully as important as the program set forth in the Fourteen Points was the unequivocal statement that the "veto power" of the great powers in the Security Council should not apply in case any nation were charged with having violated this agreement by the illegal possession or use of an atomic bomb, or preparation for

making bombs. The International Authority must not be thwarted by any national government. "There must be no veto to protect those who violate their solemn agreements not to develop or use atomic energy for destructive purposes." Mr. Baruch recognized frankly that this involved a revision of the Charter, but only "so far as the veto power relates to the field of atomic energy."

The public response to Mr. Baruch's proposals was overwhelmingly favorable in the United States, not only on account of the substance of the proposals, but also because of a desire to support what had now become a statement of national policy in the midst of a difficult negotiation. There was almost no debate on the Fourteen Points themselves, whereas the proposal to get rid of the veto power in the Security Council won ardent support among those who were advocates of world government and equally strong objection on the part of those who thought that this issue should not be raised in so definite a form at the present time.

Much more important, however, than the popular reaction in the United States, was that of the negotiating governments. All of them, with the exception of Soviet Russia and Poland, accepted the principles of the Baruch plan as a basis for discussion. The opposition of Soviet Russia, however, proved to be an apparently insurmountable obstacle to the universal acceptance of the plan. The issue which was thus joined became crystal clear in the plan of the Soviet representative, Mr. Andrei A. Gromyko, presented at the second session of the Commission on June 19.

This Soviet plan differed fundamentally from that of the United States. It started with the immediate outlawry of the atomic weapon, and the proposal to destroy all stocks of atomic energy weapons within a period of three months. In this respect it was almost the exact opposite of the method proposed in the Baruch plan, which provided for this action only after effective safeguards had been established. The Soviet plan, moreover, made no provision for the creation of any new International Authority with power to investigate what might be going on in different countries and to take over the control of all "dangerous" atomic activities. Instead of this international organization, the implications of which all the other nations wished to examine, the Soviet

draft convention left the enforcement of the outlawry of atomic weapons on the same moral plane as the Briand-Kellogg Pact [Pact of Paris] had left the outlawry of war itself. Again it was stated that the violation of this treaty would constitute "a serious crime against humanity," and each nation undertook to punish any of its own citizens for its violation.

In the eight articles of the Soviet plan there was no definite mention of the prohibition of international inspection, and in the second part of his statement, Mr. Gromyko seemed to imply that the final plan would include "methods to forbid the production of weapons based on the use of atomic energy," a proposal which would not seem to make sense unless the methods called for international cooperation. Nevertheless, in a subsequent statement, Mr. Gromyko spoke against the proposed use of international inspection as a violation of national sovereignty. This statement, if taken literally, might seem to deny the validity of the security provisions of the United Nations Charter itself. If each nation was to be left sole judge of its own action and entirely unaccountable to the United Nations authorities, there would be little left of the structure erected at San Francisco. Evidently, Mr. Gromyko's statement should not be interpreted as implying any such extreme opposition to the operations of the United Nations, for almost at the very time that he was registering his objection to the interference of officials of the Atomic Authority, Marshal Stalin was repeating in Moscow the assurance of his continued devotion to the Charter of the United Nations.

It is impossible within the limits of this short survey to cover all of the suggestions and observations made by the representatives of other nations on the Commission. The only member of the Commission besides Mr. Gromyko who presented a detailed plan was Dr. Herbert V. Evatt of Australia, whose speech in the Atomic Energy Commission on June 25 and subsequent memoranda are quoted below (pages 380–96). Dr. Evatt, who had strongly supported the claims of the smaller nations in the San Francisco Conference, was in general accord with Mr. Baruch, pointing out the interest of the smaller nations in the maintenance of a universal system which would not grant special privileges to the great powers in respect of voting.

It was soon evident that no great progress could be made toward an agreement unless the problem was studied in more definite detail. As a result, the United Nations Atomic Energy Commission met first in private session as a Working Committee, which then created committees to deal with the various aspects of the technical questions involved. As these committees have met in secret, and no public report of their findings has yet been made, it is impossible to do more than outline the nature of their work.

Dr. Herbert V. Evatt served as Chairman of the Atomic Energy Commission during its first month, as the representative of Australia, whose name headed the alphabetical list of States on the Commission's membership. In this capacity Dr. Evatt served also as Chairman of the Working Committee, on which all States holding membership in the commission were represented. At the first meeting of this Committee on June 28 it was agreed to create Subcommittee No. 1, which when formed consisted of representatives of France, Mexico, the U.S.S.R., the United Kingdom and the United States, together with the Australian representative who acted as chairman. The function of Subcommittee No. 1 was to prepare a list of propositions which the Working Committee might consider. Following its receipt of a report, made by the Chairman after five meetings of Subcommittee No. 1, the Working Committee set up three committees to carry on further detailed studies. As it had been found in the proceedings of Subcommittee No. 1 that the States not represented on the Committee desired to be present at its sessions, and subsequently felt that they wished to express their views, it was agreed that future committees dealing with major and general questions should be committees of the whole, and it was not thought that twelve members would be in any degree too unwieldy.

The first of these new committees to be established, which for want of a brief descriptive name on which general agreement could be reached, became known simply as Committee No. 2, had as its subject the general problems of atomic energy control. A Legal Advisory Committee was also created to examine and advise upon legal questions arising out of discussions and in due course to give legal advice on the drafting of any international convention. Immediate action in this regard was found to be

premature, however, as Mr. Gromyko pointed out, since political matters had not yet reached a state of agreement in which legal advice would be required. Therefore early in August this Committee held its activities in abeyance.

The third committee, the Scientific and Technical Committee, was formed to act as an advisory group on technical matters for the Commission and to examine questions related to the exchange of scientific information. The first question on which its advice was sought was on the possibility of effective controls judged from a purely technical view. Pending the completion of a report by the Scientific and Technical Committee, Committee No. 2 suspended its activities in the thought that the findings of this report might furnish new aspects conditioning the political discussions. The report itself, however, made no recommendations as to the nature of the control or inspection that would be required, but limited its work to a factual examination of each stage in atomic production, beginning with raw materials, with reference to the possibilities for diversion to warlike uses. In the preparation of the report the Committee has had the advantage of working with an international scientific membership drawn from the twelve countries which are members of the Atomic Energy Commission. It therefore seems likely that this report with its appendices will furnish the outline of a program which can be filled in by Committee No. 2. The analysis of the elements of the problem is a first step toward a possible solution.

Under the rotating system already mentioned, Dr. Evatt of Australia was succeeded at the end of his month of office as the energetic chairman of the Atomic Energy Commission by Captain Alvaro Alberto da Motta Silva of Brazil, who was followed in turn by General A. G. L. McNaughton of Canada and then by Dr. C. L. Hsia of China.

Unofficial Discussions and Proposals

Mr. Baruch's proposals for the international control of atomic energy have been so important in substance that little if any attention has been paid to the method which he employed in presenting his plan. In the most delicate and difficult of all negotia-

tions, he used the most difficult technique, public diplomacy. If there was any one field where it would have seemed impossible to apply Woodrow Wilson's formula—"open covenants, openly arrived at"—surely it is in dealing with the secret of the weapon of atomic warfare. Yet Mr. Baruch not only addressed his proposals to the members of the United Nations Atomic Energy Commission in open session, but called for public discussion of press, radio, and debate.

Although there was precedent for the use of public diplomacy in previous conferences on disarmament, notably in the Washington Naval Conference of Secretary Hughes and in the Geneva Conferences on Disarmament, yet the control of atomic armament presented an almost wholly new problem. While the previous conferences dealt mainly with comparative measurements of well-known categories of armaments, the diplomacy of today centers upon the control of a secret. There were, therefore, as Mr. Baruch was well aware, dangers in throwing open to discussion a field, part of which is not open to public exploration. Mr. Baruch, however, from the first pointed out that the problem of control is a different one from that of a knowledge of the science or engineering involved in the making of the atomic bomb. The political question is neither scientific nor engineering, it is a psychological one. National security is a moral rather than a material fact; it is the political expression of a nation's confidence in its continuing peace, and that confidence can only be gained and maintained by going straight to its source, the public opinion of each of the nations concerned.

The previous efforts at disarmament had failed to establish this confidence, partly because the proposals had not gone far enough to deal with all armaments, and partly because the Axis powers conspired against their success by preparations for war in both Europe and Asia. The danger from the Axis powers no longer blocks the way for a bold, far-reaching effort to secure this time a really adequate measure of disarmament of the atomic weapon. To achieve this purpose, Mr. Baruch strongly insisted upon the need for the support of public opinion. Like Lincoln, whom he

quoted so effectively at the close of his address, and Wilson, whose method he followed even to the enumeration of Fourteen Points, Mr. Baruch appealed to the peoples of the world rather than merely to their governments. In his opening words there was a modern echo of Jefferson's call to the opinion of mankind in our Declaration of Independence. He made it altogether clear that they were directed not only to his "fellow members" of the Atomic Energy Commission but also to "my fellow citizens of the world." Governments alone, he said, cannot insure "the promise of a new life, freed from the heart-stopping fears that now beset the world. . . . The hunger of men's spirit . . . can be cured by the conquest of fear and . . . faith in each other; faith that we want to work together toward salvation." Phrases like these scattered through the opening and closing of his address, came to climax in a sentence: "*The pattern of salvation must be worked out by all for all.*"

However, Mr. Baruch's effort to enlist the support of all right-thinking people in all countries for a plan to control the greatest source of power in the world had a special application to the people of the United States of America for, in the light of past history, other governments and nations have grown to distrust our stability of purpose in international relations. Although we have forgotten it, they do not forget the way in which we sponsored a League of Nations and a World Court, only to reject them, and they want to be fully assured that any plans for international organization which the Executive may negotiate will not be thrown down by the Congress under the pressure of a changing or indifferent American public opinion. It has been clearly shown that consistency in foreign policy depends upon the degree of intelligence and of accurate information which a nation brings to bear upon its problems. While the first phase of public discussion on great questions may lead to confusion and divided counsel, it is only on the anvil of debate that national opinion can be hammered into an instrument for effective political action. Recognizing this fact, Mr. Baruch, before making his own statement in the United Nations Committee on Atomic Energy, encouraged the work of unofficial bodies engaged upon the study of atomic energy and insisted that the pathway to agreement in international negotiation would be broader and

firmer if there were the fullest freedom of expression, critical or otherwise, of any plan or suggestion for the control of atomic energy.[6]

Long before his appointment as the American representative on the United Nations Commission, Mr. Baruch knew, of course, of the existence of a number of committees working on the problems of atomic energy. First of all there was the organization of the physical scientists, which came to be known as The Federation of American Scientists. This body, including in its membership several thousand scientific workers on the Manhattan Project and its affiliates, concentrated for the most part upon the problem of domestic control of atomic energy in the United States, especially in support of a civilian authority as set forth in the McMahon Bill. In the international field, the Federation took no decisive stand until after the publication of the Report of the Lilienthal Committee, which it accepted as a guide to policy. Upon the publication of the Baruch proposals, however, it gave them its full and hearty endorsement. Closely associated with the work of the Federation was the nation-wide campaign of education carried on by the National Committee on Atomic Information, which also stimulated the discussion of local groups in various parts of the country.

It became evident in the course of this work that the political, legal, and economic problems created by the control of atomic energy lay outside the field of the physicists and called for study and discussion by political and social scientists. Strangely enough, there was relatively little indication of interest in this subject among the political and social scientists of the universities. The Social Science Research Council, the coordinating organ of the social sciences, was one of the last bodies in that field to undertake the direction of research and planning on the political and economic implications of the control of atomic energy. It was not until the

[6] A valuable collection of extracts from statements concerning the problem of atomic power, especially with reference to the issues before the Congress of the United States, was made by Eilene Galloway and published as a *Public Affairs Bulletin* by the Library of Congress Legislative Reference Service (Bulletin No. 44, Washington, 1946).

spring and early summer of 1946 that it set up a directorate under the chairmanship of Professor Winfield W. Riefler, of The Institute for Advanced Study, to consider the long-range economic consequences of the control of atomic power. This body has only just begun its survey, but the delay has been justified by the fact that the field in which it is working is not even yet sufficiently open for research.

A short survey like this cannot do justice to the work being done in various educational bodies, in meetings of learned societies, in incidental publications, and in the radio programs. Mention should be made, however, of the activities of such bodies as the Council on Foreign Relations, the Foreign Policy Association, the Commission to Study the Organization of Peace, and the American Association for the United Nations. There were also institutes held in various centers, notably at San Francisco for the Pacific Coast, and at the University of Denver, which also maintains a regular radio program on the control of atomic energy. The problem was also made the subject of special programs by such bodies as the American Physical Society and the American Philosophical Society. Among the major radio network programs the Columbia Broadcasting System has presented an important series of broadcasts by competent authorities, under the direction of Dr. Lyman Bryson. The output of literature from these and other sources has been well listed in a descriptive bibliography in the Report of the McMahon Committee (Senate, 79th Congress, 2d Session, Report No. 1211, Calendar No. 1251).

There were, however, three main centers in which programs for future policy were outlined or plans were drafted for the international organization to control atomic energy. These three centers were Yale University, Chicago University, and the Carnegie Endowment for International Peace. At Yale, the Institute of International Studies, under the directorship of Professor Frederick S. Dunn, has published the result of months of study and discussion by a group of members of the faculty of the Institute, in a book entitled *The Absolute Weapon*. Although prepared before the Baruch statement, it remains a valuable and important analysis of the whole problem. Its conclusions are not optimistic, and while

it expresses approval of some of the main points in the Lilienthal Report, it reminds the reader of the difficulty in overcoming the forces of history and politics which have dominated until now, and which may thwart the best of plans if they are urged too rapidly and without regard to the varying situations in different countries. The distinction is drawn between problems for immediate action and those for application in the future. This cautious conclusion is stated in the following terms:

> A spectacular and complete solution to the vexing and grave problem of the international control of atomic weapons is not now within our grasp. This does not, however, mean that we are condemned to helpless inaction in the face of certain catastrophe. The Board of Consultants' report has suggested a line of action which appears to be both bold and feasible. The first step along this line can be taken now. The present analysis has suggested another possible step which can be taken now, namely, the negotiation of a general agreement for automatic obligatory retaliation against an atomic aggressor. The two steps are by no means mutually exclusive. Each favors, if it does not guarantee, the indefinite prolongation of peace.
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> Top priority must today be given to the transitional problem of keeping the future open until men can make the fundamental adaptation necessary to civilized life in the atomic era. It cannot be too strongly reiterated that "permanent" solutions which risk atomic war now in order to have permanent peace later are no solutions. They do not avoid the next war. If it is true that a third world war would be the last world war, they do not avoid any war.
>
> The urgency of finding solutions to the transitional problem has perhaps justified the present authors in not treating of the ultimate shape of things to come. They have focused on trying to find ways which will give human intelligence the time it needs to find answers to long-run problems.

At the University of Chicago there have been two important developments. One is the formation of a group known as The Atomic Scientists of Chicago, which publishes the *Bulletin of the Atomic Scientists* under the editorship of H. H. Goldsmith and E. Rabinowitch, the best periodical in this field, containing, as they appear, the texts of all the documents of the first importance. The other is the Office of Inquiry into the Social Aspects of Atomic Energy of the University of Chicago, under the direction of Professor Robert Redfield. This latter organization sponsored a

plan for the international control of atomic energy prepared by Professor Quincy Wright, the full text of which is given below (pages 397–407).

Professor Wright's plan provides for the erection of an International Atomic Energy Agency to consist of three commissions. The first of these would be a continuation of the present organizing commission. It would be charged with the duty of making subsequent recommendations to the Security Council or General Assembly for modifications of the original plan in order to insure its successful operation. The central body of the whole organization would be an Administrative Commission composed of nine members, the functions of which closely resemble those of the Atomic Development Authority of the Lilienthal plan, owning or operating uranium or thorium mines and installations for refining them. (Article 20.) It would establish a Bureau of Nuclear Studies and would have authority to license the exploitation of uranium and thorium for peaceful purposes. There would also be an Inspection Commission with authority to make surveys of the sources of raw materials as well as of installations for the production of fissionable materials. In this regard it differs definitely from the Lilienthal plan. A distinctive feature is that each State shall provide for a criminal code for the punishment of individuals who violate this agreement, and for the erection of a United Nations criminal court along the lines of that proposed in the Convention of Geneva of 1937. In this section of the plan, Professor Wright drew upon his experience at the Nuremberg trial of the German war criminals. The suggestion opens an important line of development in the limitation of national sovereignty.

As a starting point for the erection of this far-reaching scheme, Professor Wright proposed the immediate destruction of all atomic weapons in existence as soon as the convention would come into force. All stocks of fissionable materials would be transferred to the Administrative Commission, and work would cease in the installations until the whole arrangement for international control was in operation. In this regard the Chicago plan resembles the Soviet proposal; on the other hand, the machinery of control calls for a wide extension of international authority and a definite curtailment of national sovereignty.

Finally, there is the Committee on Atomic Energy of the Carnegie Endowment which was formed early in December, 1945, for the purpose of carrying on both research and educational work dealing with the problem of atomic energy control. The Committee consists of some forty members, chosen from among physical and political scientists and those experienced in the conduct of public affairs. This body met frequently for discussion, and to receive reports submitted to it by subcommittees of experts working on special problems.

The first problem which was taken up in detail was that of international inspection of radioactive mineral production. The subcommittee dealing with this subject was composed of specialists in the field of mineralogy and geology, under the chairmanship of Professor Paul F. Kerr of Columbia University. Its report as to the feasibility of such inspection[7] was that "technical control of raw materials is sufficiently feasible to justify a serious attempt to establish a control system. . . . Inspection at known mines could be carried on with a comparatively small personnel and could be made highly effective." But the detection of new discoveries would not be possible without the political support of the nations involved.

The shaping of a general plan for international control of atomic energy was turned over to a legal subcommittee under the chairmanship of Mr. George A. Finch of the Division of International Law of the Carnegie Endowment. This committee, after seven months of research and discussion, stated its conclusions in the form of a draft convention,[8] "not with any thought of anticipating the final terms of a treaty to be negotiated with governments, but as a realistic way of formulating both the political issues at stake and the suggestions for meeting them." This draft convention was adopted by the Carnegie Endowment Committee on May 11, 1946, and published on June 17.

The Carnegie Endowment Committee plan falls definitely

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[7] *A Conference Report on International Inspection of Radioactive Mineral Production*, by the Committee on Inspection of Raw Materials of the Carnegie Endowment Committee on Atomic Energy, February, 1946.

[8] *Utilization and Control of Atomic Energy: A Draft Convention*, prepared by the Legal Subcommittee of the Carnegie Endowment Committee on Atomic Energy, in Consultation with Other Legal, Political, and Scientfiic Experts, June, 1946.

within the Charter of the United Nations and does not raise the vexatious question of the veto. It proposes the creation of an International Commission with power to carry on all the peacetime preventive measures which may be necessary against any nation planning atomic war. If a nation actually resorts to war, the police measures of the Security Council would be invoked. But that is not all. Article 51 of the Charter, which asserts the "inherent right of individual or collective self-defense" is invoked and strengthened to make collective action against an aggressor State obligatory. Moreover, even during the inspection of an alleged plan for preparing atomic war, all other nations would put an embargo on the shipment to the suspected State of atomic weapons, materials, and other engines of war (Article 29). These measures of inspection and enforcement are simple and straightforward. They do not wait upon debate, but could be applied immediately and automatically whenever there was a threat to the peace.

The plan does not provide for the ownership of all uranium or thorium in the world by an International Commission which would also operate all atomic power plants. Such ownership and operation would be in the hands of a national commission in each country, like that proposed by the McMahon Senate Committee; but these national commissions would operate under the strict supervision of the International Commission (or Authority). An optional clause, however, would allow any nation desiring to do so to turn over its source materials and its plants to the International Commission.

No nation could own or make atomic weapons for its own use, but the Security Council could authorize for the United Nations the production and storage of such atomic weapons as might be needed for police purposes. It was the belief of the framers of the Convention that this need never be a large supply, and that in the course of time even that might be unnecessary.

A further guide to the plan is contained in the introduction which precedes it.

THE ESTABLISHMENT OF THE COMMISSION ON ATOMIC ENERGY

Resolution of the General Assembly of the United Nations
Seventeenth Plenary Meeting, January 24, 1946

RESOLVED by the General Assembly of the United Nations to establish a Commission, with the composition and competence set out hereunder, to deal with the problems raised by the discovery of atomic energy and other related matters.

1. Establishment of the Commission

A Commission is hereby established by the General Assembly with the terms of reference set out under section 5 below.

2. Relations of the Commission with the Organs of the United Nations

(a) The Commission shall submit its reports and recommendations to the Security Council, and such reports and recommendations shall be made public unless the Security Council, in the interest of peace and security, otherwise directs. In the appropriate cases the Security Council should transmit these reports to the General Assembly and the Members of the United Nations, as well as to the Economic and Social Council and other organs within the framework of the United Nations.

(b) In view of the Security Council's primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, the Security Council shall issue directions to the Commission in matters affecting security. On these matters the Commission shall be accountable for its work to the Secuirty Council.

3. Composition of the Commission

The Commission shall be composed of one representative from each of those States represented on the Security Council, and Canada when that State is not a member of the Security Council. Each representative on the Commission may have such assistance as he may desire.

4. Rules of procedure

The Commission shall have whatever staff it may deem neces-

sary, and shall make recommendations for its rules of procedure to the Security Council, which shall approve them as a procedural matter.

5. Terms of reference of the Commission

The Commission shall proceed with the utmost dispatch and inquire into all phases of the problem, and make such recommendations from time to time with respect to them as it finds possible. In particular, the Commission shall make specific proposals:

(a) for extending between all nations the exchange of basic scientific information for peaceful ends;

(b) for control of atomic energy to the extent necessary to insure its use only for peaceful purposes;

(c) for the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction;

(d) for effective safeguards by way of inspection and other means to protect complying States against the hazards of violations and evasions.

The work of the Commission should proceed by separate stages, the successful completion of each of which will develop the necessary confidence of the world before the next stage is undertaken.

The Commission shall not infringe upon the responsibilities of any organ of the United Nations, but should present recommendations for the consideration of those organs in the performance of their tasks under the terms of the United Nations Charter.

OFFICIAL PROPOSALS

PROPOSALS FOR AN INTERNATIONAL ATOMIC DEVELOPMENT AUTHORITY[1]

BERNARD M. BARUCH
United States Representative to the Atomic Energy Commission

MY FELLOW MEMBERS OF THE UNITED NATIONS ATOMIC ENERGY COMMISSION, and MY FELLOW CITIZENS OF THE WORLD:

We are here to make a choice between the quick and the dead. That is our business.

Behind the black portent of the new atomic age lies a hope which, seized upon with faith, can work our salvation. If we fail, then we have damned every man to be the slave of Fear. Let us not deceive ourselves: We must elect World Peace or World Destruction.

Science has torn from nature a secret so vast in its potentialities that our minds cower from the terror it creates. Yet terror is not enough to inhibit the use of the atomic bomb. The terror created by weapons has never stopped man from employing them. For each new weapon a defense has been produced, in time. But now we face a condition in which adequate defense does not exist.

Science, which gave us this dread power, shows that it *can* be made a giant help to humanity, but science does *not* show us how to prevent its baleful use. So we have been appointed to obviate that peril by finding a meeting of the minds and the hearts of our peoples. Only in the will of mankind lies the answer.

It is to express this will and make it effective that we have been assembled. We must provide the mechanism to assure that atomic energy is used for peaceful purposes and preclude its use in war. To that end, we must provide immediate, swift, and sure punishment of those who violate the agreements that are reached by the nations. Penalization is essential if peace is to be more than a feverish interlude between wars. And, too, the United Nations

[1] Made at the opening session of the United Nations Atomic Energy Commission in New York, N. Y., on June 14. Reprinted from The Department of State *Bulletin*, Vol. XIV, No. 364, June 23, 1946.

can prescribe individual responsibility and punishment on the principles applied at Nuremberg by the Union of Soviet Socialist Republics, the United Kingdom, France, and the United States—a formula certain to benefit the world's future.

In this crisis, we represent not only our governments but, in a larger way, we represent the peoples of the world. We must remember that the peoples do not belong to the governments but that the governments belong to the peoples. We must answer their demands; we must answer the world's longing for peace and security.

In that desire the United States shares ardently and hopefully. The search of science for the absolute weapon has reached fruition in this country. But she stands ready to proscribe and destroy this instrument—to lift its use from death to life—if the world will join in a pact to that end.

In our success lies the promise of a new life, freed from the heart-stopping fears that now beset the world. The beginning of victory for the great ideals for which millions have bled and died lies in building a workable plan. Now we approach fulfilment of the aspirations of mankind. At the end of the road lies the fairer, better, surer life we crave and mean to have.

Only by a lasting peace are liberties and democracies strengthened and deepened. War is their enemy. And it will not do to believe that any of us can escape war's devastation. Victor, vanquished, and neutrals alike are affected physically, economically, and morally.

Against the degradation of war we can erect a safeguard. That is the guerdon for which we reach. Within the scope of the formula we outline here there will be found, to those who seek it, the essential elements of our purpose. Others will see only emptiness. Each of us carries his own mirror in which is reflected hope—or determined desperation—courage or cowardice.

There is a famine throughout the world today. It starves men's bodies. But there is a greater famine—the hunger of men's spirit. That starvation can be cured by the conquest of fear, and the substitution of hope, from which springs faith—faith in each other, faith that we want to work together toward salvation, and determin-

ation that those who threaten the peace and safety shall be punished.

The peoples of these democracies gathered here have a particular concern with our answer, for their peoples hate war. They will have a heavy exaction to make of those who fail to provide an escape. They are not afraid of an internationalism that protects; they are unwilling to be fobbed off by mouthings about narrow sovereignty, which is today's phrase for yesterday's isolation.

The basis of a sound foreign policy, in this new age, for all the nations here gathered, is that anything that happens, no matter where or how, which menaces the peace of the world, or the economic stability, concerns each and all of us.

That, roughly, may be said to be the central theme of the United Nations. It is with that thought we begin consideration of the most important subject that can engage mankind—life itself.

Let there be no quibbling about the duty and the responsibility of this group and of the governments we represent. I was moved, in the afternoon of my life, to add my effort to gain the world's quest, by the broad mandate under which we were created. The resolution of the General Assembly, passed January 24, 1946, in London, reads:

Section V. Terms of Reference of the Commission

The Commission shall proceed with the utmost dispatch and inquire into all phases of the problems, and make such recommendations from time to time with respect to them as it finds possible. In particular the Commission shall make specific proposals:

(a) For extending between all nations the exchange of basic scientific information for peaceful ends;

(b) For control of atomic energy to the extent necessary to insure its use only for peaceful purposes;

(c) For the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction;

(d) For effective safeguards by way of inspection and other means to protect complying States against the hazards of violations and evasions.

The work of the Commission should proceed by separate stages, the successful completion of each of which will develop the necessary confidence of the world before the next stage is undertaken. . . .

Our mandate rests, in text and in spirit, upon the outcome of the Conference in Moscow of Messrs. Molotov of the Union of Soviet Socialist Republics, Bevin of the United Kingdom, and

Byrnes of the United States of America. The three Foreign Ministers on December 27, 1945, proposed the establishment of this body.

Their action was animated by a preceding conference in Washington on November 15, 1945, when the President of the United States, associated with Mr. Attlee, Prime Minister of the United Kingdom, and Mr. Mackenzie King, Prime Minister of Canada, stated that international control of the whole field of atomic energy was immediately essential. They proposed the formation of this body. In examining that source, the Agreed Declaration, it will be found that the fathers of the concept recognized the final means of world salvation—the abolition of war. Solemnly they wrote:

> We are aware that the only complete protection for the civilized world from the destructive use of scientific knowledge lies in the prevention of war. No system of safeguards that can be devised will of itself provide an effective guarantee against production of atomic weapons by a nation bent on aggression. Nor can we ignore the possibility of the development of other weapons, or of new methods of warfare, which may constitute as great a threat to civilization as the military use of atomic energy.

Through the historical approach I have outlined, we find ourselves here to test if man can produce, through his will and faith, the miracle of peace, just as he has, through science and skill, the miracle of the atom.

The United States proposes the creation of an International Atomic Development Authority, to which should be entrusted all phases of the development and use of atomic energy, starting with the raw material and including—

1. Managerial control or ownership of all atomic-energy activities potentially dangerous to world security.

2. Power to control, inspect, and license all other atomic activities.

3. The duty of fostering the beneficial uses of atomic energy.

4. Research and development responsibilities of an affirmative character intended to put the Authority in the forefront of atomic knowledge and thus to enable it to comprehend, and therefore to detect, misuse of atomic energy. To be effective, the Authority

must itself be the world's leader in the field of atomic knowledge and development and thus supplement its legal authority with the great power inherent in possession of leadership in knowledge.

I offer this as a basis for beginning our discussion.

But I think the peoples we serve would not believe—and without faith nothing counts—that a treaty, merely outlawing possession or use of the atomic bomb, constitutes effective fulfilment of the instructions to this Commission. Previous failures have been recorded in trying the method of simple renunciation, unsupported by effective guarantees of security and armament limitation. No one would have faith in that approach alone.

Now, if ever, is the time to act for the common good. Public opinion supports a world movement toward security. If I read the signs aright, the peoples want a program not composed merely of pious thoughts but of enforceable sanctions—an international law with teeth in it.

We of this nation, desirous of helping to bring peace to the world and realizing the heavy obligations upon us arising from our possession of the means of producing the bomb and from the fact that it is part of our armament, are prepared to make our full contribution toward effective control of atomic energy.

When an adequate system for control of atomic energy, including the renunciation of the bomb as a weapon, has been agreed upon and put into effective operation and condign punishments set up for violations of the rules of control which are to be stigmatized as international crimes, we propose that—

1. Manufacture of atomic bombs shall stop;

2. Existing bombs shall be disposed of pursuant to the terms of the treaty; and

3. The Authority shall be in possession of full information as to the know-how for the production of atomic energy.

Let me repeat, so as to avoid misunderstanding: My country is ready to make its full contribution toward the end we seek, subject of course to our constitutional processes and to an adequate system of control becoming fully effective, as we finally work it out.

Now as to violations: In the agreement, penalties of as serious a nature as the nations may wish and as immediate and certain in their execution as possible should be fixed for—

1. Illegal possession or use of an atomic bomb;

2. Illegal possession, or separation, of atomic material suitable for use in an atomic bomb;

3. Seizure of any plant or other property belonging to or licensed by the Authority;

4. Willful interference with the activities of the Authority;

5. Creation or operation of dangerous projects in a manner contrary to, or in the absence of, a license granted by the international control body.

It would be a deception, to which I am unwilling to lend myself, were I not to say to you and to our peoples that the matter of punishment lies at the very heart of our present security system. It might as well be admitted, here and now, that the subject goes straight to the veto power contained in the Charter of the United Nations so far as it relates to the field of atomic energy. The Charter permits penalization only by concurrence of each of the five great powers—the Union of Soviet Socialist Republics, the United Kingdom, China, France, and the United States.

I want to make very plain that I am concerned here with the veto power only as it affects this particular problem. There must be no veto to protect those who violate their solemn agreements not to develop or use atomic energy for destructive purposes.

The bomb does not wait upon debate. To delay may be to die. The time between violation and preventive action or punishment would be all too short for extended discussion as to the course to be followed.

As matters now stand several years may be necessary for another country to produce a bomb, *de novo*. However, once the basic information is generally known, and the Authority has established producing plants for peaceful purposes in the several countries, an illegal seizure of such a plant might permit a malevolent nation to produce a bomb in twelve months, and if preceded by secret preparation and necessary facilities perhaps even in a much shorter time. The time required—the advance warning given of the possible

use of a bomb—can only be generally estimated but obviously will depend upon many factors, including the success with which the Authority has been able to introduce elements of safety in the design of its plants and the degree to which illegal and secret preparation for the military use of atomic energy will have been eliminated. Presumably no nation would think of starting a war with only one bomb.

This shows how imperative speed is in detecting and penalizing violations.

The process of prevention and penalization—a problem of profound statecraft—is, as I read it, implicit in the Moscow statement, signed by the Union of Soviet Socialist Republics, the United States, and the United Kingdom a few months ago.

But before a country is ready to relinquish any winning weapons it must have more than words to reassure it. It must have a guarantee of safety, not only against the offenders in the atomic area but against the illegal users of other weapons—bacteriological, biological, gas—perhaps—why not?—against war itself.

In the elimination of war lies our solution, for only then will nations cease to compete with one another in the production and use of dread "secret" weapons which are evaluated solely by their capacity to kill. This devilish program takes us back not merely to the Dark Ages but from cosmos to chaos. If we succeed in finding a suitable way to control atomic weapons, it is reasonable to hope that we may also preclude the use of other weapons adaptable to mass destruction. When a man learns to say "A" he can, if he chooses, learn the rest of the alphabet too.

Let this be anchored in our minds:

Peace is never long preserved by weight of metal or by an armament race. Peace can be made tranquil and secure only by understanding and agreement fortified by sanctions. We must embrace international cooperation or international disintegration.

Science has taught us how to put the atom to work. But to make it work for good instead of for evil lies in the domain dealing with the principles of human duty. We are now facing a problem more of ethics than of physics.

The solution will require apparent sacrifice in pride and in

position, but better pain as the price of peace than death as the price of war.

I now submit the following measures as representing the fundamental features of a plan which would give effect to certain of the conclusions which I have epitomized.

1. General. The Authority should set up a thorough plan for control of the field of atomic energy, through various forms of ownership, dominion, licenses, operation, inspection, research, and management by competent personnel. After this is provided for, there should be as little interference as may be with the economic plans and the present private, corporate, and State relationships in the several countries involved.

2. Raw Materials. The Authority should have as one of its earliest purposes to obtain and maintain complete and accurate information on world supplies of uranium and thorium and to bring them under its dominion. The precise pattern of control for various types of deposits of such materials will have to depend upon the geological, mining, refining, and economic facts involved in different situations.

The Authority should conduct continuous surveys so that it will have the most complete knowledge of the world geology of uranium and thorium. Only after all current information on world sources of uranium and thorium is known to us all can equitable plans be made for their production, refining, and distribution.

3. Primary Production Plants. The Authority should exercise complete managerial control of the production of fissionable materials. This means that it should control and operate all plants producing fissionable materials in dangerous quantities and must own and control the product of these plants.

4. Atomic Explosives. The Authority should be given sole and exclusive right to conduct research in the field of atomic explosives. Research activities in the field of atomic explosives are essential in order that the Authority may keep in the forefront of knowledge in the field of atomic energy and fulfil the objective of preventing illicit manufacture of bombs. Only by maintaining its position as the best-informed agency will the Authority be able to determine the line between intrinsically dangerous and nondangerous activities.

5. Strategic Distribution of Activities and Materials. The activities entrusted exclusively to the Authority because they are intrinsically dangerous to security should be distributed throughout the world. Similarly, stockpiles of raw materials and fissionable materials should not be centralized.

6. Nondangerous Activities. A function of the Authority should be promotion of the peacetime benefits of atomic energy.

Atomic research (except in explosives), the use of research reactors, the production of radioactive tracers by means of nondangerous reactors, the use of such tracers, and to some extent the production of power, should be open to nations and their citizens under reasonable licensing arrangements from the Authority. Denatured materials, whose use we know also requires suitable safeguards, should be furnished for such purposes by the Authority under lease or other arrangement. Denaturing seems to have been overestimated by the public as a safety measure.

7. Definition of Dangerous and Nondangerous Activities. Although a reasonable dividing line can be drawn between dangerous and nondangerous activities, it is not hard and fast. Provision should, therefore, be made to assure constant reexamination of the questions and to permit revision of the dividing line as changing conditions and new discoveries may require.

8. Operations of Dangerous Activities. Any plant dealing with uranium or thorium after it once reaches the potential of dangerous use must be not only subject to the most rigorous and competent inspection by the Authority, but its actual operation shall be under the management, supervision, and control of the Authority.

9. Inspection. By assigning intrinsically dangerous activities exclusively to the Authority, the difficulties of inspection are reduced. If the Authority is the only agency which may lawfully conduct dangerous activities, then visible operation by others than the Authority will constitute an unambiguous danger signal. Inspection will also occur in connection with the licensing functions of the Authority.

10. Freedom of Access. Adequate ingress and egress for all qualified representatives of the Authority must be assured. Many of the inspection activities of the Authority should grow out of, and be incidental to, its other functions. Important measures of

inspection will be associated with the tight control of raw materials, for this is a keystone of the plan. The continuing activities of prospecting, survey, and research in relation to raw materials will be designed not only to serve the affirmative development functions of the Authority but also to assure that no surreptitious operations are conducted in the raw-materials field by nations or their citizens.

11. Personnel. The personnel of the Authority should be recruited on a basis of proved competence but also so far as possible on an international basis.

12. Progress by Stages. A primary step in the creation of the system of control is the setting forth, in comprehensive terms, of the functions, responsibilities, powers, and limitations of the Authority. Once a charter for the Authority has been adopted, the Authority and the system of control for which it will be responsible will require time to become fully organized and effective. The plan of control will, therefore, have to come into effect in successive stages. These should be specifically fixed in the charter or means should be otherwise set forth in the charter for transitions from one stage to another, as contemplated in the resolution of the United Nations Assembly which created this Commission.

13. Disclosures. In the deliberations of the United Nations Commission on Atomic Energy, the United States is prepared to make available the information essential to a reasonable understanding of the proposals which it advocates. Further disclosures must be dependent, in the interests of all, upon the effective ratification of the treaty. When the Authority is actually created, the United States will join the other nations in making available the further information essential to that organization for the performance of its functions. As the successive stages of international control are reached, the United States will be prepared to yield, to the extent required by each stage, national control of activities in this field to the Authority.

14. International Control. There will be questions about the extent of control to be allowed to national bodies, when the Authority is established. Purely national authorities for control and development of atomic energy should to the extent necessary for the effective operation of the Authority be subordinate to it. This is neither an endorsement nor a disapproval of the creation of

national authorities. The Commission should evolve a clear demarcation of the scope of duties and responsibilities of such national authorities.

And now I end. I have submitted an outline for present discussion. Our consideration will be broadened by the criticism of the United States proposals and by the plans of the other nations, which, it is to be hoped, will be submitted at their early convenience. I and my associates of the United States Delegation will make available to each member of this body books and pamphlets, including the Acheson-Lilienthal report, recently made by the United States Department of State, and the McMahon Committee Monograph No. 1 entitled "Essential Information on Atomic Energy" relating to the McMahon bill recently passed by the United States Senate, which may prove of value in assessing the situation.

All of us are consecrated to making an end of gloom and hopelessness. It will not be an easy job. The way is long and thorny, but supremely worth traveling. All of us want to stand erect, with our faces to the sun, instead of being forced to burrow into the earth, like rats.

The pattern of salvation must be worked out by all for all.

The light at the end of the tunnel is dim, but our path seems to grow brighter as we actually begin our journey. We cannot yet light the way to the end. However, we hope the suggestions of my Government will be illuminating.

Let us keep in mind the exhortation of Abraham Lincoln, whose words, uttered at a moment of shattering national peril, form a complete text for our deliberation. I quote, paraphrasing slightly:

> We cannot escape history. We of this meeting will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we are passing will light us down in honor or dishonor to the latest generation.
>
> We say we are for Peace. The world will not forget that we say this. We know how to save Peace. The world knows that we do. We, even we here, hold the power and have the responsibility.
>
> We shall nobly save, or meanly lose, the last, best hope of earth. The way is plain, peaceful, generous, just—a way which, if followed, the world will forever applaud.

My thanks for your attention.

ADDITIONAL UNITED STATES MEMORANDA[1]

I. Control and Development of Atomic Energy[2]

After giving careful consideration to the views expressed by the chairman of our subcommittee at its first meeting yesterday and to the comments of the other members of this subcommittee, the American Delegation has concluded that the recommendations of the chairman of our subcommittee offer a sound and expeditious approach to the solution of our problems. Accordingly, the American Delegation concurs in and endorses them.

In furtherance thereof, we submit this memorandum in the hope that it may aid the subcommittee in conducting its deliberations and reaching its conclusions. The memorandum is an attempt to outline in logical sequence a number of the more important points upon which the Commission itself will undoubtedly desire the views of this subcommittee. It does not purport to be complete. There will certainly be many additional points requiring this subcommittee's consideration.

A. The control and development of atomic energy must be international and should be entrusted to an agency which for present purposes is called the Atomic Development Authority.

B. The Authority would be created by a treaty, which should include a form of charter for the Authority and some very important additional provisions.

C. The preamble of the treaty should express the following principles:

1. The preservation of international peace and security in accordance with the purposes and principles stated in the Preamble and Chapter I of the Charter of the United Nations;

2. The safeguarding of all peoples against the use of atomic weapons;

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[1] Reprinted from Department of State *Bulletin*, Vol. XV, No. 368, July 21, 1946.

[2] Submitted to Subcommittee 1 of the United Nations Atomic Energy Commission on July 2 by the associate member on the United States delegation to the United Nations Atomic Energy Commission, Ferdinand Eberstadt.

3. The development and wide distribution of atomic energy and its by-products for purposes of raising the welfare and standard of life of the peoples of the world and of contributing to their science and culture; and

4. The realization of these ends through international cooperation, through an international agency for the development and control of atomic energy, and through a system of international enforcement.

D. The treaty should contain provisions:

1. Defining the relations between the Authority and the Security Council, the General Assembly, the International Court of Justice, and the other organs of the United Nations;

2. Defining the mutual rights and obligations of the several signatory States and the Authority, including the relations between the Authority and any atomic energy control agencies of the signatory States;

3. Governing the sequence and timing of the steps in the transition from the present conditions to the conditions which will prevail once the Authority is in effective control of atomic energy;

4. Specifying the time when and the conditions under which the national and private possession, manufacture, and use of atomic weapons shall be outlawed;

5. Defining the violations which shall constitute international crimes and specifying the sanctions to be employed for such violations;

6. Relating to signature, ratification, entry into force and amendment of the treaty; and

7. Concerning any necessary amendment of the Charter of the United Nations.

E. The charter of the Atomic Development Authority should state the following purposes of the Authority:

1. To prevent the possession, manufacture or use of atomic weapons for mass destruction;

2. To foster the beneficial, nondangerous uses of atomic energy;

3. To have managerial control or ownership of all atomic energy activities potentially dangerous to world security;

4. To control, inspect, and license all other atomic energy activities;

5. To engage in atomic energy research and development; and

6. To assure that the benefits derived from such research and development shall be available to the peoples of all the signatory States so long as each State and its people support the Authority and observe their obligations under the treaty and charter.

F. The charter should contain specific provisions governing topics under the following principal headings:

1. *Functions and Powers of the Atomic Development Authority.* Subject to application in the manner to be defined in the charter, the Authority should be granted the following powers:

a. To obtain and maintain complete and exclusive control or ownership of all uranium, thorium, and other material which may be a source of atomic energy wherever present in potentially dangerous quantities whether in raw material, by-product, processed, or other form;

b. To conduct continuous investigations and surveys of sources of atomic energy throughout the world, in aid of the proper exercise of the foregoing and the Authority's other functions and powers;

c. To acquire, construct, own, and exclusively operate all facilities for the production of U-235, plutonium, and such other fissionable materials as may be specified by the Authority, and to maintain supplies of fissionable materials adequate to fulfil the purposes of the Authority;

d. To define and determine, in the manner set forth in the charter, any other facilities or activities in the field of atomic energy which would be dangerous unless controlled by the Authority, and to supervise and have complete managerial control of all such activities and facilities;

e. To have unhindered access to, and power to control, license, and inspect all other facilities which possess, utilize or produce materials which are a source of atomic energy, and all other activities which utilize or produce, or are capable of utilizing or producing, atomic energy;

f. To have the exclusive right of research in the field of atomic explosives;

g. To foster and promote the nondangerous use and wide distribution of atomic energy for beneficial purposes under licenses or other suitable arrangements established by the Authority; and

h. Subject to the provisions of the treaty and charter, to have power to take other necessary action and to issue rules and regulations.

2. *Composition, Organization, and Location of the Atomic Development Authority.*

a. All signatory States to be members of the Authority.

b. Conditions upon which States not Members of the United Nations may become parties to the treaty.

c. The Authority to be organized to function continuously.

d. Governing Board.

(1) Composition and qualifications.
(2) Method of nomination and selection.
(3) Terms of office.
(4) Voting procedure.
(5) Powers and duties.
(6) Compensation.

e. Executive management.

(1) Number and titles of executive officers.
(2) Qualifications and method of selection.
(3) Terms of office.
(4) Powers and duties.
(5) Compensation.

f. Staff and consultants.

g. Subordinate boards, divisions, and other units.

h. Location of the Authority.

G. Provisions for enforcement should be included in the treaty as follows:

1. Definitions of conduct constituting violations.

2. Consequences of such violations, including the procedures to be followed in detecting, establishing, remedying or punishing such violations:

a. Administrative action by the Authority.
(1) Special investigations.
(2) Revocation or denial of licenses.
(3) Other action.
b. Resort to judicial processes and procedures.
c. Reference of serious violations to the Security Council of the United Nations.

H. The following additional topics should be provided for in the treaty:

1. Legal capacity and privileges and immunities of the Authority in the territory of each signatory State.
2. Privileges and immunities of officials of the Authority.
3. Accountability of the Authority and its officials, and the scope of, and procedure for, review of their actions.
4. Method of financing the Authority.
5. Procedure for determination of the prices and quotas which the Authority should employ in the sale or lease of atomic energy materials or by-products.
6. Procedure for determination of the compensation to be made by the Authority in acquiring atomic energy supplies and facilities.
7. Measures to insure adequate protection and strategic location of the premises and property of the Authority.
8. Definitions of terms used in the treaty and charter.

Note on order in which topics should be considered:

Consideration of the charter first would afford an understanding of the functions to be performed by the Authority and would facilitate agreement upon the other provisions of the treaty.

2. Functions and Powers of Proposed Atomic Development Authority[1]

1. A fundamental element of the United States plan for control of atomic energy is an international Atomic Development Authority with the dual functions of:

[1] Submitted by the United States Representative on the Atomic Energy Commission, Bernard M. Baruch, on July 5.

a. preventing the use of atomic energy for destructive purposes;

b. promoting the peaceful applications of atomic energy and its by-products for the material benefit of the peoples of the world and as a contribution to their science and culture.

2. A few very basic facts afford the opportunity, and determine the pattern, for control of atomic energy. One is that the nuclear chain reaction, essential to the release of atomic energy in any form, requires the presence of uranium alone or in combination with thorium to produce fissionable material. Available knowledge indicates that this requirement is likely to prevail for a considerable time. Another important fact is that all of the initial processes in the production of these fissionable materials and certain subsequent ones are identical whether their intended use or purpose is beneficent or dangerous.

The conclusion to be drawn from these facts is that the core of any system for control of atomic energy is effective dominion over all uranium and thorium and their fissionable derivatives.

The degree of effectiveness of such controls over these fissionable materials is the measure of the success of our undertaking. To be fully effective, such controls must attach firmly to all uranium and thorium from the moment they are produced and must remain in effect so long as they exist in a state or quantity susceptible of dangerous use. Any uranium or thorium in unauthorized hands is a threat to the entire system of control and thus to the maintenance of peace.

Since the exploitation of atomic energy for peaceful purposes necessitates operations which are, in the initial stages, identical with those needed to make atomic energy available for destructive purposes, both of these functions (1*a* and 1*b* above) should be assigned to the same agency. Futhermore, an international agency with responsibilities for fostering the beneficial uses of atomic energy, as well as responsibilities for preventing its misuse, will be more effective, constructive, and workable than if it has merely duties of inspection and policing. The activities of such an agency might even result in establishing beneficial patterns of international cooperation of a new and hopeful kind.

In discussing the powers and functions of the Authority, it is

helpful to distinguish between operations which are "safe" and those which are "dangerous" from the point of view of misapplication of facilities for the accomplishment of destructive ends.

3. The functions and powers of the Authority will be exercised in a variety of ways and by various means. It is impossible at this time to catalog completely the exact forms of control which the Authority will need to employ. In general, they fall into the categories of ownership, managerial control supervision, leasing, licensing, and inspection. The Authority should, of course, be given wide power and discretion as to the particular means or combinations thereof which it deems best adapted to the accomplishment of its functions.

4. Section F of the memorandum submitted to Subcommittee No. 1 by the United States Delegation on July 2, 1946, sets forth a partial list of functions and powers of the control agency.

The following, arranged in the order of presentation contained in said memorandum, is submitted, in response to the request of our chairman, by way of explanation and amplification of the operation of these controls:

"*a.* to obtain and maintain complete and exclusive control or ownership of all uranium, thorium, and other material which may be a source of atomic energy wherever present in potentially dangerous quantities whether in raw material, byproduct, processed, or other form."

Initial control, at the source, of the basic materials on which atomic energy depends provides the fundamental basis for protection and facilitates control over all subsequent processing of these materials. Complete control of such basic materials is essential to the successful functioning of the Authority. Uranium is, so far as we now know, the only substance occurring in nature in significant quantities which can maintain a chain reaction. However, thorium, in combination with uranium or its derivative plutonium, may well be useful in manufacturing chain-reacting, fissionable material. Therefore, we propose that the Authority be empowered to exercise such measures of control over the mining and processing of both uranium and thorium, as to assure its ownership of all stocks of both of these materials.

In so far as exercising actual control over natural deposits of uranium and thorium ores is concerned, the precise pattern of control suitable for various types of deposits of such materials will have to depend on the geological, mining, refining, and economic facts involved in different situations.

The Authority, in short, must have such control of mining and concentrating operations as will assure its complete and absolute ownership of all uranium and thorium actually produced. There must be no possibility of diversion from the moment the ore is removed from the ground, and the Authority must set up such actual measures of control as will assure this result.

"*b.* To conduct continuous investigations and surveys of sources of atomic energy throughout the world, in aid of the proper exercise of the foregoing and the Authority's other functions and powers."

The Authority should have as one of its earliest purposes to obtain and maintain complete and accurate information on world supplies of uranium and thorium. Such information as is now available is admittedly inadequate. It must be made complete and accurate and so maintained. Furthermore, the Authority should be empowered to search out new deposits and to expand its knowledge of world supplies of such materials through such surveying and prospecting activities as it may deem necessary. As a result of its own efforts and from information furnished to it by others, the Authority should keep currently informed on the discovery of new deposits.

"*c.* To acquire, construct, own, and exclusively operate all facilities for the production of U-235, plutonium, and such other fissionable materials as may be specified by the Authority, and to maintain supplies of fissionable materials adequate to fulfil the purposes of the Authority."

A primary purpose of the Authority is to prevent illicit use of fissionable materials. It can do this most certainly, most easily, and with least interference with political considerations and industrial operations if it is the sole manufacturer and owner of such materials. Therefore, it should own and operate all primary

production facilities for the manufacture of U-235, plutonium, and such other materials as the Authority may determine. As an exception to the foregoing, the Authority may license others to operate facilities which are capable of producing only small quantities of fissionable material, and which in the judgment of the Authority do not permit the accumulation of dangerous stockpiles of atomic explosives.

The Authority will thus have control of the locations of primary production plants and of any stockpiles of materials. The geographical distribution of such plants and stockpiles should be determined in accordance with principles to be specified in the charter.

With the Authority having the sole right to manufacture fissionable materials, any attempt by others to carry on such operations, or to seize the Authority's facilities, whatever the announced intent, would, of itself, constitute a grave violation.

Title to all fissionable materials, and final control over their use, should remain at all times with the Authority.

The Authority should be empowered to use fissionable materials for peaceful purposes, and to lease such materials for use by others under conditions which it deems safe, and subject to such controls as it deems necessary.

"*d.* To define and determine, in the manner set forth in the charter, any other facilities or activities in the field of atomic energy which would be dangerous unless controlled by the Authority, and to supervise and have complete managerial control of all such activities and facilities."

The development of atomic energy for peaceful purposes follows in much of its course a path parallel with the development of atomic weapons. Therefore, it is essential that the Authority have complete control of all operations which might facilitate atomic weapon production. This requires that the Authority also have the power to determine, and adjust from time to time, based on increased knowledge, the dividing line between "safe" and "dangerous" activities as new conditions demand. It is important to emphasize the complicated and varying considerations involved in determining this dividing line.

Control of "dangerous" activities should be carried out to the greatest extent possible through direct operation by the Authority. An organization which is actively carrying out an operation is in a much better position to prevent diversion of material than one which merely exercises inspection and policing functions. Furthermore, while the Authority must have full power to conduct such inspection and policing activities as are necessary, the fact that it alone carries on the critical operations will reduce inspection to manageable scope, and render control of atomic energy less burdensome and irritating to nations and their citizens.

"*e.* To have unhindered access to, and power to control, license, and inspect all other facilities which possess, utilize, or produce materials which are a source of atomic energy, and all other activities which utilize or produce, or are capable of utilizing or producing, atomic energy."

As covered under *c* above, the Authority may lease fissionable material exclusively for peaceful purposes under proper safeguards. In all such instances, the Authority should have unhindered access to these installations and such control and opportunity for inspection as it deems necessary to prevent misuse.

The Authority may permit others to operate, under such license and control as it deems suitable, research, experimental or other installations which would produce nondangerous amounts of fissionable materials, provided, however, that the Authority cannot under any circumstances license others to conduct research on the utilization of atomic energy for explosives.

"*f.* To have the exclusive right of research in the field of atomic explosives."

The Authority should have the sole right to conduct research on atomic explosives. Such research is necessary in order to keep the Authority in the forefront of knowledge in this field. This exclusive right of research does not carry with it the right to stockpile atomic weapons. This is a separate matter to be dealt with in the treaty.

The above provisions assume that the treaty will include agreements forbidding any nation, its agents, instrumentalities,

and citizens from engaging in research in the field of atomic explosives.

"*g.* To foster and promote the nondangerous use and wide distribution of atomic energy for beneficial purposes under licenses or other suitable arrangements established by the Authority."

While it is a prime purpose of the Authority to prevent national development or use of atomic armament, it is of importance that it foster and promote to the maximum degree scientific research, engineering development, and peaceful utilization of atomic energy for the good of mankind.

To this end, the Authority should:

(1) conduct scientific research in this field with its own facilities, and should not only permit but encourage and actively assist others to carry on such work, under such conditions as it deems appropriate,

(2) encourage and assist others to conduct nondangerous developments directed toward the useful applications of atomic energy, and the advancement of science, and should carry on enough such work with its own facilities so that it may be fully informed, and may assist others at critical points,

(3) promote the actual beneficial utilization of atomic energy. It is obviously impossible to foresee at this time what all such uses may be.

One of these which has been discussed is the generation of power. In the operation of nuclear reactors for the production of plutonium, heat is produced in considerable quantities. The large reactors now in existence are not designed to operate at high enough temperatures to produce heat energy usable as a source of power. However, it seems possible that reactors for production of fissionable material might be so designed that they would produce usable power as a by-product. Since the Authority will own and operate all reactors producing "dangerous" amounts of fissionable material, it follows that the Authority may itself become a producer of power. Power so produced could be turned over or sold to existing or future power systems for final distribution. This is a very complex problem. It would have to be done in accordance with

principles contained in the charter and in conjunction with the geographical distribution of plants referred to in *c* above.

The Authority may also be empowered to lease to others dilute or so-called "denatured" fissionable material in sufficient quantities to permit them to operate atomic power plants without hazard to peace. In such cases, the Authority would have to exercise control over the design of the atomic energy-producing part of the power plants, to prevent the possibility of conversion to "dangerous" use, to facilitate inspection, and to insure safety to personnel. The Authority should also be prepared to render engineering assistance to achieve maximum efficiency of power units. Their design, construction, and operation should at all times be under Authority inspection. Such power plants must operate under license from the Authority and must use only active material owned by the Authority, and leased to them for this limited and specific purpose.

One of the most immediately useful applications of atomic energy is the production and utilization of radio-active isotopes. These also are produced in nuclear reactors, either as a main or a by-product. Reactors for the production of isotopes which are designed as "safe" units—that is, units which in the judgment of the Authority do not produce or use a dangerous amount or quality of fissionable material—may be constructed and operated by others than the Authority under conditions similar to those described above for "safe" power plants.

In the interest of preventing an unnecessary centralization of operations in the hands of the Authority, it seems desirable that the Authority should leave to others the field of nondangerous isotope production to the maximum extent consistent with safety. The uses of isotopes, obtained either by irradiation in reactors, or from the fission products of the same, may be among the most beneficial results of the development of atomic energy. Some such applications are already under way and well known.

Other important benefits of the release of atomic energy will be in directions as yet unpredictable. For this reason, among others, the charter of the Authority should give it enough flexibility and discretion so that it may adjust quickly to new conditions as they arise

"*h.* Subject to the provisions of the treaty and charter, to have power to take other necessary action and to issue rules and regulations."

In order that the Authority may properly carry out its functions it should possess the following rights and privileges: (1) the unhindered use of established postal, telephone, radio communication, and telegraph facilities; (2) the right to operate its own system of radio communication exclusively for its own business; (3) the unhindered movement of its personnel in and between installations and to any other points, across and within national boundaries in connection with proper discharge of their functions; and (4) the use of transportation facilities in and between the various nations for the unhindered movement of its personnel, supplies, and equipment.

5. Adequate performance of its functions by the Authority requires that national authorities for control and development of atomic energy should be subordinate to the Authority to the extent necessary for its effective operation. However, in carrying out the functions of the Authority, there should be as little interference as possible with the economic plans and the private, corporate, and State relationships in the several countries involved.

6. Obviously, the controls outlined in this memorandum cannot spring into existence full grown and complete upon the legal establishment of the Authority. The process of putting them into effect will necessarily extend over a considerable period of time. It will have to be done by stages provided in the treaty or charter and according to prearranged schedules based on sound and logical sequence leading to full and effective establishment of all controls.

7. The exercise by the Authority of the controls referred to above will call for a wide variety of administrative decisions based upon fair, sound, and responsible judgments. In suggesting the conferring of these powers upon the Authority, it is not intended that their exercise by the Authority should be absolute, unlimited, and free from review. Obviously, as to certain specific fields and functions to be defined in the treaty, the Authority's decisions would be final. In others they would not. It is our intention in dealing with the relation of the Authority to other elements of the

United Nations to treat this phase of the subject more fully, and also to present proposals for enforcement of the provisions of the treaty and charter as well as for sanctions for violations.

8. As a function of its control operations, the Authority should make provision for the rendering of frequent and detailed reports to the appropriate organs of the United Nations and to the constituent nations, embodying the results of its researches, new discoveries in the atomic field, the level of its material stockpiles, new locations of ores, and all other important and pertinent information. In addition, properly accredited representatives of the United Nations and of the constituent nations should be permitted, under suitable regulations, to inspect the plants, properties, records, and operations of the Authority.

9. For the effective operation of the Authority in the manner contemplated, it is essential that the Authority be composed of personnel of the highest character and ability. The affirmative character of the functions of the Authority in dealing both with "dangerous" operations and the dissemination of scientific data of a beneficial nature require, and should assure, that the Authority attract such personnel.

10. Functions and powers and controls are to a certain extent reflections of the same subject from different angles. In this memorandum, devoted predominantly to controls, the repressive functions of the Authority have received more attention than its functions in the stimulation of research and of the beneficial uses of atomic energy. We want to emphasize, therefore, that we lay importance upon the Authority's activities in both fields.

3. Relations between the Atomic Development Authority and the Organs of the United Nations[1]

In response to the request of the chairman, the representative of the United States submits this memorandum enlarging upon paragraph D. 1. of his memorandum of July 2, 1946, which reads as follows:

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[1] In further exposition of the United States position, the United States Representative on the United Nations Atomic Energy Commission, Bernard M. Baruch, submitted this memorandum on July 12.

"D. The treaty should contain provisions:

1. Defining the relations between the Authority and the Security Council, the General Assembly, the International Court of Justice, and the other organs of the United Nations."

The contents of this memorandum also relate to the matters dealt with in the chairman's memorandum, submitted at the last meeting of the subcommittee on July 8, 1946, which has been of great aid to us in the preparation of this memorandum.

The nature of the relations of the Atomic Development Authority with the various organs of the United Nations obviously will depend upon the powers and functions which the Authority receives and upon its status within the framework of the United Nations. Once these are made clear, the problems involved in the adjustment of the Authority to the organizational structure of the United Nations become clear and can be solved.

Three general considerations appear at the outset.

1. The first arises from the fact that the question of control and development of atomic energy was neither considered nor dealt with in the framing of the Charter of the United Nations. This circumstance, however, should not be permitted to prevent bringing within the framework of their Charter a matter of such vital common concern to the Members of the United Nations. On the contrary, if the Charter is to survive, it must be susceptible of adaptation to meet new needs dictated by new conditions. The control and development of atomic energy, therefore, should not lead to the formation of an international agency unrelated to, or outside of, the United Nations, but rather to one fashioned in sound relationship to the Charter and to the organs thereby created.

2. Secondly, none of the existing organs of the United Nations possesses the managerial, proprietary, inspecting, and licensing powers necessary to effective international control and development of atomic energy. A new agency therefore is necessary. Moreover, even if the Charter could be construed to provide for a subsidiary organ created by collective action of several of the existing organs and possessing an aggregate of powers delegated

by each of them, such subsidiary organ would not have adequate powers under the Charter. Accordingly, the Authority, as a new organ, should be established by treaty granting it all necessary powers and defining its relation with the existing organs of the United Nations.

3. The third general consideration concerns the degree of autonomy of the Authority. Having in mind the essentially non-political character of the Authority, the presumably high caliber of its personnel, and the necessity for wide discretion on its part in order to achieve its purposes of control and development, great weight and a considerable degree of finality should be given to its determinations, orders, and practices. Where their consideration is required by another organ, they should be accepted unless clearly erroneous or beyond the scope of the Authority's powers.

Three categories of decisions may be mentioned. They will, of course, need careful definition. In general they are (1) Administrative matters on which the decisions of the Authority are final; (2) Decisions on other matters not of sufficient gravity to constitute a threat to the peace. These might be subject to review, possibly by a board established for this purpose. Its decisions, in turn, should be enforced by the Security Council as procedural matters, for, regardless of the original seriousness of the offense, failure to respond to the proper orders of the Authority creates a situation demanding the attention of the Security Council. We consider, hereinafter, in its appropriate place the relation of the Authority to the International Court of Justice; (3) Serious offenses constituting a threat to the peace. These, as hereinafter outlined, fall within the jurisdiction of the Security Council and the provision of Article 51 of the Charter.

One further comment is in order before taking up in detail the relation of the Authority to the several organs of the United Nations. Article 2, paragraph 7 of the Charter will not be infringed by the Authority. This paragraph is confined to matters "essentially within the domestic jurisdiction of any State." Specific recognition in the treaty that control of atomic energy cannot be essentially domestic but rather predominantly international would be sufficient to render this paragraph inapplicable.

The respective functions of the Authority and of the principal organs of the United Nations, when viewed in the light of the foregoing considerations, indicate the general relationships which should prevail.

They are outlined in the following paragraphs.

a. The General Assembly

The General Assembly is composed of all Members of the United Nations. Its Composition, Functions and Powers, Voting, and Procedure are contained in Chapter IV, Articles 9–22 of the Charter of the United Nations. Provisions with respect to the General Assembly also appear in other parts of the Charter. The character of the General Assembly and its importance in the whole concept of the Charter indicate, among others, the following respects in which the Authority may properly be related to it.

(1) The Authority should submit periodic and, when necessary, special reports to the Assembly concerning the Authority's activities, programs, and information.

(2) The provisions for discussion and recommendation by the Assembly contained in the Charter should be construed to include matters pertaining to the Authority.

(3) The Assembly also might appropriately have a role in connection with the budget of the Authority.

b. The Security Council

The Charter of the United Nations confers on the Security Council primary responsibility for the maintenance of international peace and security. (Chapters V, VI, VII, VIII, and XII). Many of the important features of the control and development of atomic energy, though by no means all of them, are intimately associated with the maintenance of international peace and security. With respect to these features, the Authority and the Security Council must be brought into close relationship.

The following particulars in this regard are suggested:

(1) In the event of an occurrence within the area of the Authority's jurisdiction constituting a threat to the peace, breach of the peace or act of aggression, such occurrence should immediately

be certified by the Authority to the Security Council, the Assembly, and the signatory States. The treaty should establish this category of offenses and the conditions surrounding them. For purpose of illustration, they might include violations such as those specifically mentioned by Mr. Baruch in the United States proposal, viz:

(*a*) Illegal possession or use of an atomic bomb;
(*b*) Illegal possession, or separation, of atomic material suitable for use in an atomic bomb;
(*c*) Seizure of any plant or other property belonging to, or licensed by, the Authority;
(*d*) Willful interference with the activities of the Authority;
(*e*) Creation or operation of dangerous projects in a manner contrary to, or in the absence of a license granted by the Authority.

The controls established by the treaty would be wholly ineffectual if, in any such situations, to be defined in the treaty, the enforcement of security provisions could be prevented by the vote of a State which has signed the treaty. Any other conception would render the whole principle of veto ridiculous. It is intended to be an instrument for the protection of nations, not a shield behind which deception and criminal acts can be performed with impunity. This in no way impairs the doctrine of unanimity. No State need be an unwilling party to the treaty. But every State which freely and willingly becomes a party to the treaty, by this act, solemnly and firmly binds itself to abide by its undertakings. Such undertakings would become illusory, if the guarantee against their breach resided solely in the conscience of the one who commits the breach.

All parties to the treaty and all peoples of the world, must have protection of a final and dependable character against the terrible consequences of the destructive use of atomic energy. Such protection requires international machinery which can and will function quickly—machinery which does not permit the offender to be protected by his own or another's negation of the exercise of joint power essential to the security of all. Particularly is this true, with respect to matters which become essentially procedural once the Authority has made its certification based on the substantive provision of law established by the treaty.

The relation of the Authority to the Security Council should recognize this principle. Subject to this principle, the Security Council should have full jurisdiction over serious violations certified to it by the Authority. This in no manner impairs or diminishes the power or the *modus operandi* of the Security Council in any other situation.

As the United States Representative on the Atomic Energy Commission stated at the opening session:

> I want to make very plain that I am concerned here with the veto power only as it affects this particular problem. There must be no veto to protect those who violate their solemn agreements not to develop or use atomic energy for destructive purposes.

Voluntary relinquishment of the veto on questions relating to a specific weapon previously outlawed by unanimous agreement because of its uniquely destructive character, in no wise involves any compromise of the principle of unanimity of action as applied to general problems or to particular situations not foreseeable and therefore not susceptible of advance unanimous agreement.

What has been said above must be emphasized. It is not intended to limit the powers, authority, responsibility or jurisdiction of the Security Council to maintain international peace and security. It is quite possible that in a major case of aggression, violation of the atomic treaty and the rules of the Authority may play an incidental part. Nothing herein suggested is intended to restrict or limit the overriding powers of the Security Council to deal with such matters unaffected by the incidental inclusion of atomic energy considerations as part of the problems.

(2) It is impossible to treat this subject without reference to Article 51 of the Charter, which provides as follows:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council.

Interpretating its provisions with respect to atomic energy matters, it is clear that if atomic weapons were employed as part of an

"armed attack," the rights reserved by the nations to themselves under 51 would be applicable. It is equally clear that an "armed attack" is now something entirely different from what it was prior to the discovery of atomic weapons. It would therefore seem to be both important and appropriate under present conditions that the treaty define "armed attack" in a manner appropriate to atomic weapons and include in the definition not simply the actual dropping of an atomic bomb, but also certain steps in themselves preliminary to such action.

(3) The Authority may be required to carry out certain decisions by the Security Council with respect to which the assistance of the Authority is deemed appropriate.

(4) Reports and other information should be submitted by the Authority to the Council concerning the Authority's activities, programs, and information, particularly as they bear upon the maintenance of international peace and security.

(5) Consultation by the Military Staff Committee with the Authority on questions relating to the military repercussions of the Authority's plans of action should be provided for in the treaty.

c. The International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. Relations between the Authority and the Court are worthy of consideration in connection with aiding the functioning of the Authority. It is unfortunate that the World Court would not be fully open to the Authority as a litigant without amendment to the Charter. However, the field of advisory opinions would be open and should be availed of in appropriate cases.

In no case should the jurisdiction of the Court exclude or delay action by the Security Council nor diminish the primary responsibilities of the Security Council in maintaining international peace and security. The following suggestions are made with this understanding.

(1) The Authority might be authorized to request the Court to give advisory opinions on any legal questions arising within the scope of the Authority's activities; including any questions of proper interpretation or application of provisions of the treaty.

(2) The Authority might be authorized to be a party in cases before the Court involving legal disputes arising under the treaty.

(3) The treaty might include provisions that the Authority and the signatory States would be bound to submit to the jurisdiction of the Court in all legal disputes defined by the treaty which are referred to the Court in the manner provided, and that the judgments of the Court should be enforced by the Security Council.

d. The Trusteeship Council

Mutual consultation and exchange of information between the Authority and the Trusteeship Council should be authorized concerning atomic energy development and control activities, facilities, and resources, located in trust territories or closely related to proper administration of such territories.

e. The Secretariat

Relations between the Authority and the Secretariat do not seem to require detailed treatment at this time.

In conclusion, the foregoing indicates the manner in which appropriate relations between the Authority and the United States might be established in accordance with the principles stated by Mr. Baruch in the United States proposal.

THE RUSSIAN PROPOSALS FOR INTERNATIONAL CONTROL[1]

ANDREI A. GROMYKO
Soviet Union Representative to the Atomic Energy Commission

The Atomic Energy Commission created in accordance with the resolution of the Moscow Conference of the Foreign Ministers of the Three Powers and with the resolution of the first session of the General Assembly, must proceed to the practical realization of the tasks set before it. The significance of these tasks and, consequently, of the activities of the Commission, is determined by the importance of the very discovery of methods of using atomic energy, which led to the creation of this Commission. Scientific efforts have produced a result, the significance of which is hard to appraise. That which is already known regarding the significance of this discovery and which, undoubtedly, is merely the preliminary to still greater conquests of science in this field in the future, emphasizes how important are the tasks and activities of the Commission.

As the result of the definite course of events during the last few years the circumstances were combined in such a way that one of the greatest discoveries of mankind found its first material application in the form of a particular weapon—the atomic bomb. However, although up to the present time this use of atomic energy is the only known form of its practical application, it is the general opinion that humanity stands at the threshold of a wide application of atomic energy for peaceful purposes for the benefit of the peoples, for promoting their welfare and raising their standard of living and for the development of science and culture.

There are thus two possible ways in which this discovery can be used. One way is to use it for the purpose of producing the

[1] Made at the second session of the United Nations Atomic Energy Commission. Reprinted from pages 23–30 of the *Official Record* of June 19, 1946

means of mass destruction. The other way is to use it for the benefit of mankind.

The paradox of the situation lies in the fact that it is the first way that has been more studied and more effectively mastered in practice. The second way has been less studied and effectively mastered in practice. However, this circumstance not only does not diminish the importance of the tasks that lie before the Atomic Commission but, on the contrary, emphasizes to an even greater degree the significance of these tasks for all that concerns the strengthening of peace between the nations.

There can be no active and effective system of peace if the discovery of the means of using atomic energy is not placed in the service of humanity and is not applied to peaceful purposes only. The use of this discovery only for the purpose of promoting the welfare of the peoples and widening their scientific and cultural horizons will help to strengthen confidence between the countries and friendly relations between them.

On the other hand, to continue the use of this discovery for the production of weapons of mass destruction is likely to intensify mistrust between States and to keep the peoples of the world in continual anxiety and uncertainty. Such a position is contrary to the aspirations of the peace-loving peoples, who long for the establishment of enduring peace and are making every effort in order that these aspirations may be transformed into reality.

As one of the primary measures for the fulfilment of the resolution of the General Assembly of 24 January, 1946, the Soviet delegation proposes that consideration be given to the question of concluding an international convention prohibiting the production and employment of weapons based on the use of atomic energy for the purpose of mass destruction. The object of such a convention should be the prohibition of the production and employment of atomic weapons, the destruction of existing stocks of atomic weapons, and the condemnation of all activities undertaken in violation of this convention. The elaboration and conclusion of a convention of this kind would be, in the opinion of the Soviet delegation, only one of the primary measures to be taken to prevent the use of atomic energy to the detriment of mankind. This

act should be followed by other measures aiming at the establishment of methods to insure the strict observance of the terms and obligations contained in the above-mentioned convention, the establishment of a system of control over the observance of the convention and the taking of decisions regarding the sanctions to be applied against the unlawful use of atomic energy. The public opinion of the whole civilized world has already rightly condemned the use in warfare of asphyxiating, poisonous and other similar gases, as well as all similar liquids and substances, and likewise bacteriological means, by concluding corresponding agreements for the prohibition of their use.

In view of this, the necessity of concluding a convention prohibiting the production and employment of atomic weapons is even more obvious. Such a convention would correspond in an even greater degree to the aspirations of the peoples of the whole world.

The conclusion of such a convention and the elaboration of a system of measures providing for the strict fulfilment of its terms, the establishment of control over the observance of the obligations imposed by the convention, and the establishment of sanctions to be applied against violators of the convention will, in the opinion of the Soviet delegation, be a serious step forward on the way toward the fulfilment of the tasks that lie before the Atomic Energy Commission, and fully corresponds to the aspirations and conscience of the whole of progressive humanity.

The necessity for the States to assume the obligation not to produce or employ atomic weapons is also dictated by the fact that the character of this weapon is such that its employment brings untold misery above all to the peaceful population. The results of its employment are incompatible with the generally accepted standards and ideas riveted in the consciousness of humanity in the course of many centuries to the effect that the rules of warfare must not allow the extermination of innocent civilian populations.

The situation existing at the present time, which has been brought about by the discovery of the means of applying atomic energy and using them for the production of atomic weapons,

precludes the possibility of normal scientific cooperation between the States of the world. At the very basis of the present situation, which is characterized by the absence of any limitation in regard to the production and employment of atomic weapons, there are reasons which can only increase the suspicion of some countries in regard to others and give rise to political instability. It is clear that the continuation of such a situation is likely to bring only negative results in regard to peace.

Moreover, the continuation of the present situation means that the latest scientific attainments in this field will not be a basis for joint scientific efforts among the countries for the object of discovering ways of using atomic energy for peaceful purposes. Hence there follows only one correct conclusion, namely, the necessity of an exchange of scientific information between countries and the necessity of joint scientific efforts directed toward a broadening of the possibilities of the use of atomic energy only in the interests of promoting the material welfare of the peoples and developing science and culture. The success of the work of the Commission will be determined in a large measure by the extent to which it succeeds in solving this important task.

The proposal for a wide exchange of scientific information is timely because such a scientific discovery, as the discovery of methods of using atomic energy, cannot remain for an indefinite time the property of only one country or small group of countries. It is bound to become the property of a number of countries. This confirms the necessity of a wide exchange of scientific information on the problem in question, and the necessity of drawing up corresponding measures in this field, including measures of organization.

I have stated the general considerations regarding the tasks and the character of the activities of the Atomic Energy Commission. In order to develop these general statements, on the instructions of my Government, I will place before the Commission for consideration two concrete proposals which, in the opinion of the Soviet Government, may constitute a basis for the adoption by the Commission of recommendations to the Security Council and play an important role in the strengthening of peace. These proposals are as follows:

(1) concerning the conclusion of an international convention prohibiting the production and employment of weapons based on the use of atomic energy for the purpose of mass destruction.

(2) concerning the organization of the work of the Atomic Energy Commission.

I will read the text of the first proposal.

DRAFT INTERNATIONAL CONVENTION TO PROHIBIT THE PRODUCTION AND EMPLOYMENT OF WEAPONS BASED ON THE USE OF ATOMIC ENERGY FOR THE PURPOSE OF MASS DESTRUCTION

(*Here follows a list of signatory States*)

Being profoundly aware of the vast significance of the great scientific discoveries connected with the splitting of the atom and the obtaining and use of atomic energy for the purpose of promoting the welfare and raising the standard of living of the peoples of the world, as well as for the development of culture and science for the benefit of mankind;

animated by the desire to promote in every way the fullest possible utilization by all peoples of scientific discoveries in the sphere of atomic energy for the purpose of improving the conditions of life of the peoples of the world and promoting their welfare and the further progress of human culture;

fully realizing that the great scientific discoveries in the sphere of atomic energy carry with them a great danger, above all, for peaceful towns and the civilian population in the event of these discoveries being used in the form of atomic weapons for the purpose of mass destruction;

recognizing the great significance of the fact that international agreements have already prohibited the use in warfare of asphyxiating, poisonous and other similar gases, as well as all similar liquids, substances and processes, and likewise bacteriological means, rightly condemned by the public opinion of the civilized world, and considering that the international prohibition of the use of atomic weapons for the mass destruction of human beings corresponds in still greater measure to the aspirations and the conscience of the peoples of the whole world;

being firmly resolved to avert the danger of these scientific discoveries being used to the detriment and against the interests of mankind;

resolved to conclude a convention to prohibit the production and the employment of weapons based on the use of atomic energy, and for this purpose appointed as their plenipotentiaries . . . (*here follows the list of plenipotentiaries*), who, after presenting their credentials found to be in good and due form, agreed as follows:

Article 1. The high contracting parties solemnly declare that they are unanimously resolved to prohibit the production and employment of weapons based on the use of atomic energy, and for this purpose assume the following obligations:

(a) not to use atomic weapons in any circumstances whatsoever;

(b) to prohibit the production and storing of weapons based on the use of atomic energy;

(c) to destroy, within a period of three months from the day of the entry into force of the present convention, all stocks of atomic energy weapons whether in a finished or unfinished condition.

Article 2. The high contracting parties declare that any violation of Article 1 of the present convention is a most serious international crime against humanity.

Article 3. The high contracting parties shall, within a period of six months from the day of the entry into force of the present convention, pass legislation providing severe penalties for violators of the statutes of the present convention.

Article 4. The present convention shall be of indefinite duration.

Article 5. The present convention shall be open for the adhesion of any State whether a Member or nonmember of the United Nations.

Article 6. The present convention shall come into force after its approval by the Security Council and after the ratification and delivery of ratification documents to the Secretary-General for safekeeping by one half of the signatory States, including all the Member States of the United Nations named in Article 23 of the Charter of the Organization.

Article 7. After the entry into force of the present convention it shall be binding on all States whether Members or nonmembers of the United Nations.

Article 8. The present convention, of which the Russian, Chinese, French, English, and Spanish texts shall be authentic, is drawn up in one copy and shall be kept in the archives of the Secretary-General of the United Nations. The Secretary-General shall communicate certified copies to all the parties to the convention.

I will read the text of the second proposal.

Concerning the Organization of the Work of the Atomic Energy Commission

In accordance with the resolution of the General Assembly of 24 January, 1946, regarding the establishment of a commission to deal with problems raised by the discovery of atomic energy and other related matters, and in particular with Article 5 of the said resolution relating to the terms of reference of the Commission, the Soviet delegation deems it necessary to propose the following plan of organization of the work of the Commission for the initial stage of its activity.

I. Establishment of committees of the commission

In pursuance of the aim indicated in the resolution of the General Assembly "to proceed with the utmost dispatch and inquire into all phases of the problems," it appears to be necessary to set up two committees which as auxiliary organs of the Commission would insure a thorough examination of the problem of atomic energy and the elaboration of recommendations, which the Commission must make in fulfilment of the resolution of the General Assembly and other organs of the United Nations.

It is proposed that the following committees should be set up:

Committee for the Exchange of Scientific Information

This committee shall be set up for the purpose of carrying out the aims indicated in point (a) of item 5 of the resolution of the General Assembly of 24 January, 1946.

The tasks of the committee shall include the elaboration of recommendations concerning practical measures for organizing the exchange of information:

(1) concerning the contents of scientific discoveries connected with the splitting of the atomic nucleus and other discoveries connected with obtaining and using atomic energy;

(2) concerning the technology and the organization of technological processes for obtaining and using atomic energy;

(3) concerning the organization and methods of industrial production of atomic energy and the use of this energy;

(4) concerning the forms, sources, and locations of the raw materials necessary for obtaining atomic energy.

Committee for the Prevention of the Use of Atomic Energy to the Detriment of Mankind

This committee shall be set up to carry out the aims set forth in points (b), (c) and (d) of item 5 of the resolution of the General Assembly.

The task of the committee shall be to elaborate recommendations:

(1) concerning the drafting of an international convention for outlawing weapons based on the use of atomic energy and prohibiting the production and use of such weapons and all other similar kinds of weapons capable of being used for mass destruction;

(2) concerning the quest for and establishment of measures to prohibit the production of weapons based on the use of atomic energy and to prevent the use of atomic weapons and all other main kinds of weapons capable of being used for mass destruction;

(3) concerning the measures, systems, and organization of control over the use of atomic energy and over the observance of the terms of the above-mentioned international convention for the outlawing of atomic weapons;

(4) concerning the elaboration of a system of sanctions to be applied against the unlawful use of atomic energy.

II. COMPOSITION OF THE COMMITTEES

Each committee shall be composed of one representative of each

State represented in the Commission. Each representative may have assistants.

III. RULES OF PROCEDURE OF THE COMMITTEES

The rules of procedure of the committees shall be drawn up by the Commission.

The proposal for the conclusion of a convention and the proposal for the organization of the work of the Commission are both capable of being put into practice at the present time.

The convention would be a definite and important step toward the creation of an effective system of control over atomic energy. This measure would have an immense moral and political significance and would contribute to the strengthening of political stability in the world and of friendly relations between the peoples.

The creation of the two committees that I have proposed, with the terms of reference laid down in the proposal, will mean the adoption of a concrete plan of work of the Commission for the initial stage of its activities, and at the same time, the adoption of the necessary organizational forms for carrying out its work which will facilitate the speedy preparation by the Commission of proposals concerning the wide exchange of scientific information, as well as concerning matters relating to the prevention of the use of atomic energy to the detriment of mankind.

The activity of the Atomic Energy Commission can bring about the desired results only when it is in full conformity with the principles of the Charter of the United Nations which are laid down as the basis of the activity of the Security Council, because the Commission is an organ of this Organization, working under the instructions of the Security Council and responsible to the same.

Attempts to undermine the principles, as established by the Charter, of the activity of the Security Council, including unanimity of the members of the Security Council in deciding questions of substance, are incompatible with the interests of the United Nations, who created the international organization for the preservation of peace and security. Such attempts must be rejected.

I deemed it necessary to make this statement in order that, from the very beginning of the work of our Commission, I might make

clear the position of the Soviet Government regarding the question of the character and basis of the work of the Commission, regarding the question of the recommendations to be prepared by it, and regarding the measures of control over atomic energy to be submitted to the Security Council.

In conclusion I wish to say that in my present statement I set myself the task of emphasizing the extreme importance of the proposal for the conclusion of the above-mentioned convention prohibiting the production and employment of atomic weapons.

The conclusion of such a convention would constitute an important practical step toward the fulfilment of the tasks that lie before the Commission.

STATEMENT BY MR. GROMYKO AT THE SECOND MEETING OF COMMITTEE NO. 2 OF THE ATOMIC ENERGY COMMISSION ON JULY 24, 1946, COMMENTING ON UNITED STATES MEMORANDUM NO. 3

[*The New York Times*, July 25]

Mr. Gromyko began his observations by stating that he attached great importance to the question whether or not the existing organs of the United Nations are empowered to deal with problems of control over atomic energy. Whereas the United States memorandum states that the existing organs of the United Nations are not empowered to deal with the questions relating to the control of atomic energy, the U.S.S.R. feels that "such conclusions cannot be justified." The United Nations Charter mentions no specific type of arms which might be used by an aggressor, but deals with this subject in general terms, and grants to the Security Council full power and rights to deal with such matters. That is, the Security Council "is able and has full power" to deal with these questions; the Atomic Energy Commission was established to assist the Security Council in these matters, but the Council should make all final decisions.

In respect to decisions relating to the control of atomic energy and to decisions to be made by an atomic development authority, as proposed by the United States representative, the United States memorandum drew up three categories—administrative matters, procedural matters, and serious offenses. These proposals "are of such a character that in reality such an authority would be independent of the Security Council and would have almost full autonomy. This cannot be reconciled with the Charter of the United Nations."

The United States memorandum realizes, said Mr. Gromyko, that the broad functions and powers of the Atomic Development Authority in the field of control, inspection, and in other fields are difficult to reconcile with the relevant provisions of the Charter insuring the sovereignty of Member States of the United Nations.

The United States proposed, therefore, that all matters related to atomic energy should be considered as matters of international and not of national importance and jurisdiction in order to make Article 2, paragraph 7, of the Charter of the United Nations inapplicable to matters of atomic energy.

Mr. Gromyko stressed that "when the Charter of the United Nations was prepared by the conference at San Francisco, the question of sovereignty was one of the most important questions considered." This principle of sovereignty is one of the cornerstones on which the United Nations structure is built; if this were touched the whole existence and future of the United Nations would be threatened.

In respect to the relationship between the Atomic Development Authority and the General Assembly of the United Nations, said Mr. Gromyko, it is to be noted that there were no proposals in the United States memorandum which "would mean lessening the provisions by which the rights and functions of the General Assembly are assured." This is rightly so, stated Mr. Gromyko; the powers of all organs of the United Nations must be protected.

While the rights of the General Assembly were not minimized, on the other hand the United States memorandum denied the Security Council the rights it should have under the Charter. Such a situation could not be considered as normal. The position of the Soviet Government was that the power, authority, and prestige of the Security Council should not be undermined in connection with the problem of atomic energy.

Mr. Gromyko declared further that the United States proposals also "change entirely the meaning of Article 51 of the Charter."

On the question of the voting procedure in the Security Council, Mr. Gromyko said:

"On this question also I should like to make again clear the position of the Soviet Union that we cannot accept any proposals that would undermine in any degree the principle of the unanimity of the permanent members of the Security Council in the maintenance of peace and security."

Mr. Gromyko noted that he had already made the position of the Soviet Government on this question quite clear at the second

meeting of the Atomic Energy Commission and that he thought it would be dangerous and maybe fatal to undermine this principle which was embodied in the Charter of the United Nations at San Francisco in recognition of its necessity for maintaining peace and security. The great powers, said Mr. Gromyko, will provide the main means against aggression, as this was recognized in the San Francisco decision on the voting procedure in the Security Council.

In conclusion Mr. Gromyko said: "The United States proposals, referring to United States Memorandum No. 3, in their present form cannot be accepted in any way by the Soviet Union either as a whole or in separate parts."

VIEWS OF AUSTRALIA[1]

HERBERT V. EVATT

Before closing this general discussion of the question of the statement of the United States Representative and of the Assembly resolution, I shall state briefly the views of Australia on the proposals which have been placed before us.

THE PROBLEM MUST BE CONSIDERED AS A WHOLE

One essential point must be made clear at the outset.

The highly complex problem which confronts us should be considered as a whole. It is not sound to deal with any one of its many aspects in isolation. Action which is proposed in one direction must necessarily have a bearing on action which is taken or proposed in other directions.

From this point of view—that the problem is to be dealt with as a whole—the plan submitted by the United States representative offers a sound basis for planning. The Australian Government is in general agreement with the proposal made by Mr. Baruch that, as part of a single plan, an international authority be established for the purpose of preventing the misuse of atomic energy and insuring its use for the purpose of promoting the general welfare of mankind.

Mr. Gromyko has suggested the study of a draft international agreement forbidding the manufacture and use of atomic weapons, to be followed by other measures involving strict supervision and control to see that the terms of the agreements are strictly observed. This suggestion must receive careful consideration and, I believe, it can be fitted into the general plan implied in the United States' proposals. Mr. Gromyko's proposals, however, do not, in my view, give sufficient recognition to the essential interrelation between all the various parts of the one great problem.

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1 Speech delivered by the Australian representative at session of the Atomic Energy Commission of the United Nations on June 25, 1946. Text supplied by the Australian Mission to the United Nations.

Dangers of Delay

It was with a conviction of the urgency of this single problem that the Assembly instructed this Commission to proceed "with the utmost dispatch"! This urgency is based on both negative and positive reasons. Negatively, atomic energy is such a danger to humanity that it must be lessened and then removed. Positively, atomic energy can be such a boon to humanity that we must not delay in releasing its beneficial forces. It was inevitable that modern scientific methods would reveal the hidden energy within the atom. Much as some might wish to do so, the world cannot now return to the pre-atomic age. The problems of the atomic age cannot be evaded by suppression of the relevant scientific facts. The problem must be faced boldly and solved quickly.

If there is long delay in solving the international aspects of the problem, scientists in one country or another will discover new and revolutionary processes for the release of atomic energy. They may prove very tenacious of such secrets.

Delay may also lead nations to build stockpiles of fissionable materials for atomic bombs with the result that required material will not be available for the production and use of atomic energy for industrial and scientific purposes.

Long delay may even endanger the United Nations Organization itself for delay may arouse the suspicion of the peoples of the world that the Powers will produce atomic weapons because they are incompetent to agree upon a means for just and equitable control.

Diverse Interests of Countries

It is inevitable in the first instance that any nation will be inclined to approach the problems of atomic energy from the point of view of its own security and welfare. World security and world welfare cannot be successfully promoted if we fail to recognize this tendency. Each nation will wish to avoid the use against itself of the devastating weapons which the release of atomic energy makes possible. Each nation will seek to enjoy as soon as possible the benefits which atomic energy can bring, in scientific development, in the art of medicine and as a source of industrial

power. Again, some nations possess in their territories sources of new wealth in ores and concentrates of uranium and thorium. Atomic energy development is not solely or even mainly dependent upon the existing military strength of the powers because the known source materials are not situated only in the territories of the major powers; in fact, the significant deposits are in the territories of less powerful nations.

It is to be expected that countries which are relatively poor in existing power resources, and particularly those countries which also possess significant deposits of uranium ores and thorium concentrates, should be concerned with the possibility of rapid application of nuclear energy for the production of industrial power. There are nations whose industries may decline in the absence of an alternative to coal as a source of power, and to such countries even the terrors of atomic warfare may often appear more remote than a dwindling economy or decreasing standards of living. There are other countries where supplies of power not involving the transport of large quantities of coal or the building of long electrical transmission lines would open up new areas of agricultural or of mineral development. Abundant power at reasonable cost is the lifeblood of modern industry. Power from atomic energy may enable modern communities to flourish in regions remote from existing sources of power. Such nations, for whom the peaceful uses of atomic energy are of more immediate importance, will be likely to demand access at the earliest possible moment to such materials and information as may be necessary for them to develop atomic energy for peaceful purposes.

Need for Just and Equitable Timetable

These considerations should all be borne in mind when the timetable for the world developmental authority, the exchange of information, and the imposition of controls and sanctions are being discussed and planned. On the one hand the very special position reached by the United States in the field has to be fully understood and an immediate and complete disclosure of their monopoly of knowledge could not be supported and would not be in the general interest of mankind. But on the other hand, a retarded timetable for disclosure must leave the development of atomic energy for

many years in the hands of a few nations, other nations being handicapped seriously in their development. Accordingly, the steps to be taken should be clearly set out and follow one another in just and equitable sequence as part of the overall plan.

Supply of Radio-Active Substances

There is one step which might well be taken immediately. The importance of radio-active substances in scientific research in general and in medical research in particular, is so great that it is in the interests of every nation that supplies of these materials should be available to all workers in these fields at the earliest possible moment. No one country or group of countries would wish to have a monopoly of these materials. Even if for the time being one or a few countries alone possess the facilities for the manufacture of radio-active substances, all countries should be able to secure on reasonable terms their fair share of such substances.

I have already mentioned the special interest of those countries which possess within their territories deposits of uranium and thorium and who are thus able to make an important contribution as suppliers of raw materials. One should not be surprised if some such countries are reluctant to accept control of their product by an international authority unless controls are also accepted by those countries possessing plants for the production of fissionable materials. Therefore, while control of mining operations and of the raw materials extracted from the ores may well form an essential basis of international control system, that system will also have to provide for disclosure of scientific and technical information, and for the cessation of production of atomic weapons, on terms and conditions to be agreed upon and defined. All this illustrates the necessity of an international agreement which will in the one instrument define the obligations to be accepted by the parties to the instrument and establish an atomic energy authority through which those obligations can be made effective.

Controls by Inspection

If an Atomic Development Authority effectively controlled all sources of raw materials and all plants for the exploitation of

atomic energy, as suggested by Mr. Baruch, that would in itself insure that no materials will be diverted to military purposes. It is necessary, however, to guard against a country setting up its own plants in secret. Precautions against such an evasion will be required but such precautions need not give a vast army of official inspectors the right to delve into all the activities of a nation in the spheres of general mining and engineering.

Control over officially recognized plants could be assisted by a strict accounting and supervision of all fissionable materials and by exchange of technical personnel between the plants in the various countries. Such workers, exchanged between nations, would be natural vehicles for interchange of technical information, and with a common background of interest and altruism would assist in maintaining understanding and good will.

It is obviously impracticable to conduct inspection in such a way that the possibility of secret mining or bomb-making could be completely eliminated, but if the barriers which at present restrict free intercourse between countries could be eliminated or greatly modified, it would become almost impossible to conceal operations on a scale of major military significance.

Any effective system of controls and safeguards should of course be based upon the most up-to-date information available on the technical aspects of atomic energy. The discoveries are so recent that little reliance can be placed on the claim that great improvements in existing methods are improbable, or that an entirely new and revolutionary approach is impossible. Whatever the precise form of the controlling authority it must base its decisions upon adequate knowledge and proper provision must be made to keep it informed fully and immediately of any new scientific or technical developments bearing upon the release of atomic energy.

The Principle of an International Authority

The Australian Government agrees in principle with the proposal for the establishment of an international authority to act as the organ of the United Nations in the field of atomic energy. The exact relation of such an authority with the United Nations will require detailed consideration. One question of this character

which was referred to by Mr. Baruch is the application of the so-called veto. It is essential that the precise nature of this special privilege should be clearly understood.

The Veto Power

At present the veto power relates solely to a particular method of voting in reaching decisions of the Security Council on matters of substance as distinct from procedure. If any one of the five permanent members of the Security Council chooses to do so it can block a decision of the agreed majority (7) of the eleven Council members. Thus the so-called "veto" can only be exercised in the course of voting in the body of the Security Council by a permanent member in order to prevent a vote by seven members of the Council from becoming effective. It is erroneous to apply the term "right of veto" to decisions of the United Nations generally because it is only in relation to one of its organs that the right has been conferred. The right applies solely to the special circumstances of the operations of the Security Council and the possession of such a right in the Council does not give any claim to a similar veto in respect of the operation of any other international authority.

To some extent the recommendations of this Commission will require review by the Security Council. In such review the veto may be exercisable according to the circumstances. In this Commission itself no veto is exercisable unless we decide to introduce it, which is not contemplated. When the Assembly of the United Nations deals with the welfare aspects of atomic energy, no veto is exercisable. If in the end an international convention establishes a world atomic authority, the day-to-day administrative decisions of that body may or may not be subject to the veto system of voting. That is a matter for the consideration of this Commission when it is reviewing the problem as a whole.

However, I think I should add that in my view nothing has been disclosed regarding the nature of atomic energy or of the possible functions of the proposed international authority on atomic energy to indicate why any particular nation or nations should be accorded the right of veto over the decisions of the agreed majority of the

Authority. Some lesser powers have important supplies of some materials; one large nation, the United States, has highly developed plants and very special technological knowledge; a number of other nations, large, middle-sized, and small, have brilliant scientists; but none of these facts seems to me an argument for applying the special voting rule of the Security Council to the decisions of a new international authority. We should in any event, take this matter of the veto up only in conjunction with the general plan.

Functions of the International Authority

The precise functions of the International Authority will of course need to be defined.

The Authority should own, distribute, and account for all fissionable material obtained from mines or used in plants. It should have responsible officers in every plant or mine capable of producing fissionable materials in appreciable quantities, and should undertake or procure a strict accounting of and access to all fissionable materials used in nondangerous operations. One of its functions should be to insure equitable distribution of raw materials to all licensed users.

Summary of Australian Proposals

To sum up:

The Australian Government favors a general international convention which will

(a) vest in an international authority control of all rights in raw materials, processes, plants and the products of plants for the exploitation of all forms of atomic energy, leaving however as much freedom as possible to national and private research and other activity where this is not dangerous to international security,

(b) establish a system of effective control and inspection along the lines indicated by Mr. Baruch,

(c) provide that, when the controls and safeguards have been effectively organized, the manufacture of atomic weapons and the stockpiling of material for military purposes cease and that existing stocks of bombs be dismantled,

(d) provide that all information of importance for the peaceful use of atomic energy shall be made available to all nations through exchange of personnel and through free and open publication, notwithstanding that some such information may be of some slight military significance,

(e) accelerate all development for converting atomic energy to peaceful purposes,

(f) provide that there shall be a just and equitable sequence for the implementation of all the provisions of the convention, including the provisions set out in (a) to (d) above, and on acceptance by each of the parties to the convention of all its obliga tions and sanctions.

A Possible Working Plan

From the outset, therefore, the problem created by the discovery and use of atomic energy should be treated as one integrated whole. Special consideration should be given to its beneficial uses as well as to its destructive power; each measure of international control should go hand in hand with other necessary measures so that each may assist the other and all will tend to create that international trust which is necessary in order to simultaneously remove the dangers and to grasp the benefits presented by this new discovery.

The Commission has been directed to inquire into *all* phases of the problem. It is true that four matters have been listed in the Assembly resolution and with regard to all of them we are required to make specific proposals. However, these matters are not and cannot be mutually exclusive but are closely interconnected. The work of the Commission should "proceed by separate stages" but it seems to me that the Commission should not deal piecemeal with the separate aspects of the problem but should endeavor to treat the problem as a whole.

Underlying the whole discussion up to date has been the common acceptance of: (a) the idea of some form of international atomic energy authority, and (b) the idea that all nations of the world should accept certain obligations regarding the use of atomic energy. In the circumstances the Commission should defer

for the time being any detailed discussion regarding the duration and details of all the steps and stages by which the control of atomic energy will be introduced and developed. We should in the first instance devote ourselves to consideration of the basis on which the proposed international atomic energy authority can be brought into existence, of the obligations which all nations might reasonably be asked to accept in order to give strength and purpose to such an organization and to obtain the benefits which should flow therefrom.

There are certain general principles which should be acceptable to all. For instance, the proposed international atomic energy authority should concern itself both with the prevention of the misuse of the new discovery and with insuring that its benefits are realized. Again it will be generally agreed in principle that as part of the general plan there must be included therein a renunciation by all nations of the use of atomic weapons, a sharing of information and cooperation in the development of atomic energy, and an effective system of inspection and of sanctions to safeguard against any breach of undertakings.

It would also appear inevitable that provision for defining these obligations and constituting the proposed international authority should be contained in a single instrument.

It would therefore appear that one immediate task before us is to consider the drawing up of a first draft of the heads of such an international instrument as I have suggested. I believe that from the statements which have been made before this Commission it is possible for a working committee, composed of representatives from each of the members of this Commission, to prepare a first draft of the main principles of a charter for a world authority to control and develop atomic energy. Such a committee could be set to work immediately with this task before it. It should readily discover those points of fundamental principle on which we are all agreed. The Committee would of course have before it not only Mr. Baruch's statement but also the observations, criticisms, and suggestions which have been made by the other eleven members of the Commission. Subject to the supervision of the Commission, the Committee should have power to

appoint subcommittees. It should report regularly to this Commission the progress made by it in working out and drafting one integrated plan to be embodied in the international instrument.

The people of the world are following the proceedings of this Commission with great anxiety and concern. They are looking to us for prompt action. They will not be satisfied with expressions of mere hopes and aspirations. They are demanding a plan which will at once remove a great fear from their hearts and bring them closer to the benefits that scientists and technicians of this age can and will make available from the bountiful forces of nature.

ADDITIONAL AUSTRALIAN MEMORANDA[1]

Tentative Proposals by Chairman of the Atomic Commission Herbert V. Evatt, July 1, 1946

Examination of the statements made by the members of the Atomic Energy Commission suggest that most nations are agreed in principle that (a) there should be established some form of international atomic energy authority, and (b) all nations should accept such restrictions of their national rights in the field of atomic energy as may be necessary to insure that atomic weapons are eliminated and that the peaceful uses of atomic energy are developed and made available.

Therefore, in the first instance attention might usefully be devoted to consideration of whether we can recommend that such an authority should be established, and, if so, what are the basic principles to be contained in any treaty including the principle of (a) a right to share in the scientific, medical, and industrial benefits to be derived from the controlled development of atomic energy, and (b) the principle of a duty to accept obligations in order to insure that the abuse of atomic energy shall be effectively prevented.

Accordingly, in order to explore the possibility of making recommendations covering all the main aspects of the problem as discussed in the Commission, the following general principles should be examined:

1. There should be a single international instrument embodying (a) a comprehensive plan for the international control and development of atomic energy; (b) the establishment of an international atomic energy authority to administer and carry out the plan and to be vested wth wide discretionary powers; (c) that, as part of the plan, there should be undertakings by member nations not to use atomic energy for purposes of war; and (d) that the several parts of the plan shall come into effective opera-

[1] Texts supplied by the Australian Mission to the United Nations.

tion under terms and conditions which are just and equitable, having regard to the overriding purposes of the plan.

2. That, for the purposes of carrying out the plan, the international authority should be vested with all necessary rights in the relevant raw materials, processes, plants, and the products of plants.

3. That an effective system should be established for preventing breaches of the agreed restrictions and controls.

4. That the international authority shall be required to promote and carry out plans for the development of atomic energy for peaceful purposes.

5. That scientific information on nuclear processes and their application to peaceful purposes should be exchanged, care being taken at each stage not to prejudice the effectiveness of the agreed safeguards against misuse. Such exchange of information should take place by interchange of personnel and through open publication.

6. That the general plan should provide that, at times and under conditions to be fixed by the international authority, the manufacture of atomic bombs should cease and all existing bombs should be dismantled.

Analysis of the Relationship between Organized Measures for the International Control of Atomic Energy and the United Nations Organization (Particularly the Security Council), by Herbert V. Evatt, July 8, 1946

1. It is important to examine the extent to which it will be possible to establish measures for the international control of atomic energy while fully maintaining the powers and functions of the United Nations.

2. The essential task of the Atomic Energy Commission is to formulate a comprehensive plan for such measures of international control of atomic energy as will insure its use for peaceful purposes only.

3. Past experience of international pacts suggests that mere undertakings by nations to cease production of atomic weapons, to destroy existing stocks and not to use atomic weapons for

purposes of war would not be sufficient; if so, such undertakings should be linked to and integrated with positive and continuous measures of control.

4. Such a system of control measures could not be made effective unless there is established some form of international agency. There cannot be inspection without inspectors, vested with the necessary powers. Such inspectors must be appointed by and responsible to *some* international agency.

5. While the existence and activities of any international agency for controlling and developing atomic energy would have a bearing upon international security, it is entirely fallacious to suppose that the exercise of the powers and functions of any such international agency should, or, under the present Charter of the United Nations could, be subjected to the general supervision of jurisdiction of the Security Council.

6. Whatever might be the full content of the functions and duties of the international agency, it would certainly be called upon to exercise detailed continuous, almost day-to-day supervision in the field of atomic energy development. It would be necessary for the agency to act promptly and authoritatively on a wide range of matters of an administrative character.

7. The precise measures which might be authorized and taken by way of inspection, licensing, ownership, etc., are a matter for subsequent specification. It is almost impossible, however, to see how the functions and powers of such an agency, working as it would in a defined and limited field, could come into conflict with the exercise by the Security Council of the functions and powers which have been conferred on the Security Council by the United Nations Charter.

8. The powers of the Security Council are not general or unlimited. They are defined in the Charter. Even in regard to the maintenance of international peace and security, the jurisdiction of the Security Council, though "primary" in character (Article 24), is not exclusive of the jurisdiction of the General Assembly under the Charter (compare Articles 10, 11, 14), while in other matters, not directly related to peace and security, not the Security Council but the General Assembly or the Economic and Social

Council would be the organ of the United Nations more nearly concerned. In general, therefore, the exercise of the powers and functions of any international atomic energy agency would not trench upon that of any organ of the United Nations.

9. Much of the work of an atomic energy agency would be concerned with such matters as inspection, licensing, collection, and dissemination of statistics, research, and development. Such matters are quite distinct from the very special kind of dispute or situation over which the Security Council is given jurisdiction by the United Nations Charter.

10. The jurisdiction of the Security Council can be invoked only if the proved or admitted circumstances of the particular case indicate international friction so that a situation exists which can be dealt with either under Chapter VI or Chapter VII of the Charter. Under Chapter VI the condition of the Security Council intervention is that a dispute or situation must be likely to endanger the maintenance of international peace or security (Article 34) and, if so, the Security Council may lawfully attempt peaceful methods of adjustment (Article 36). Again, under Chapter VII, direct executive action of a very drastic character—including commercial boycott and the actual levying of war—is open to the Security Council, but this executive action is conditional upon the proof of a "threat to the peace, breach of the peace, or act of aggression" (Article 39).

11. The executive action open to the Security Council under Chapter VII of the Charter is often referred to under the generic term "sanctions." It is important, however, to note that "sanctions" for nonobservance of rules (e.g. the rules laid down by an international atomic energy agency) would be of a very different character to those specified in connection with Security Council action under Chapter VII. The atomic energy agency's employment of sanctions for noncompliance with its controls might include such actions as the suspension or cancellation of a license to produce materials or energy, the imposition of pecuniary penalties, the withholding of the benefits flowing from the use of atomic energy for industrial purposes, etc. In short the functions exercisable by the atomic energy agency and the penalties and sanctions

it would use would be very different in nature and quality from those competent to the Security Council under the Charter.

12. The powers given to the General Assembly and the Security Council under Articles 22 and 29 to create subsidiary organs appear to be inapplicable to the atomic energy agency because the Charter makes it clear that functions of such subsidiary organs are limited to the performance of functions which belong to the respective parent bodies. The functions of an international atomic energy agency would be quite distinct from the functions of the Security Council. The atomic energy agency therefore cannot be a subsidiary organ of the Security Council. Similarly, while the functions of the General Assembly are practically unlimited as to discussion, the General Assembly possesses no direct executive authority. Accordingly, the atomic energy agency could not be a subsidiary organ of the General Assembly. This supports the view that a new treaty would be necessary to confer any effective executive or administrative powers on the international atomic energy agency.

13. If the new atomic energy agency is created by multilateral treaty, its relationship with the United Nations could and should be governed by the treaty itself and by the existing Charter of the United Nations.

14. In case of collision between the obligations of the Charter and those of any treaty, the Charter of the United Nations prevails, for Article 103 expressly states that in the event of a conflict between the obligations of the Members of the United Nations under the present Charter, and their obligations under any other international agreement, their obligations under the present Charter shall prevail. This means that in relation to the Security Council, if there is a conflict between the obligations imposed on a member by the United Nations Charter or by the Security Council acting in pursuance of Chapter VII of the Charter, such obligations would prevail over any obligations that might be imposed on a member by the atomic energy treaty or by the atomic energy agency acting in pursuance of that treaty.

15. However, it is almost impossible to visualize the possibility of any such conflict. The misuse of atomic energy by a member

or the breach of the Atomic Energy Treaty by a member might suggest the existence of a threat to the peace or breach of the peace or act of aggression within Chapter VII of the Charter. If so, such a situation can be brought to the notice of the Security Council at any time not only by any Member of the United Nations but, presumably, by the Atomic Energy Agency itself. But it is also clear that the jurisdiction of the Security Council under Chapter VII of the United Nations Charter might equally be invoked by proof of an intention by a member to misuse or use armaments other than atomic bombs, for the Security Council's jurisdiction relates to aggression and threats to the peace whatsoever instrument may be employed by the nation or nations concerned.

16. For the above reasons it is a profound error to assume that the sanctions and enforcement provisions of any Atomic Energy Treaty would or could be identical with those prescribed in Chapter VII of the Charter for action by the Security Council, or that any collision of jurisdiction between the Security Council and the Atomic Energy agency is likely. In a properly framed multilateral treaty on atomic energy no collision would be possible.

17. No doubt, the Atomic Energy Treaty would contain provision for "sanctions" or punishment for violation of any of its terms. In addition, proper safeguards would be included such as access to an impartial and internationally constituted court. It should be understood from the outset that every party to the Treaty must be subject to the rules of conduct laid down in the treaty or by the agency. For that reason no system of veto should be permitted in the procedure of the atomic energy agency for that would mean a right or privilege to claim a special immunity or exemption from the general rules of conduct. Every nation which enters into the Atomic Energy Treaty must be bound by all the rules and obligations as well as entitled to all its rights. It has already been indicated in paragraph 15 that the atomic energy agency could itself be empowered to bring to the notice of the Security Council a serious case of breach of the treaty. Moreover, a violation of the treaty might be of so grave a character

as to give rise to the inherent right of self-defense recognized in Article 51 of the United Nations Charter.

18. The above analysis shows that the atomic energy agency must have autonomy in the performance of its functions and powers. It also shows that the Security Council will not, by the creation and functioning of such an autonomous agency, be at all impeded in the performance of its duties under the United Nations Charter.

19. The United Nations have committed to the Security Council specific responsibility, powers, and functions for the maintenance and restoration of international peace and security. As already explained, the duty of the Security Council is not so much to prevent the use of particular weapons for the purposes of aggression as to prevent aggression itself. That duty of the Security Council would be quite outside the jurisdiction of any atomic energy agency.

20. The above analysis has been made upon the assumption that the present Charter of the United Nations is for the time being unamended.

UNOFFICIAL PLANS

DRAFT FOR A CONVENTION ON DEVELOPMENT AND CONTROL OF ATOMIC ENERGY BY THE UNIVERSITY OF CHICAGO COMMITTEE

WHEREAS, the use of atomic weapons for purposes of offense or defense might result in such destruction as to threaten the existence of civilization;

WHEREAS, the General Assembly of the United Nations has suggested,

a. That the exchange of basic scientific information for peaceful ends should be extended between all nations;

b. That atomic energy should be controlled to the extent necessary to insure its use only for peaceful purposes;

c. That atomic weapons and all other major weapons adapted to mass destruction should be eliminated from national armaments; and

d. That complying States should be protected against the hazards of violation and evasion by effective safeguards by way of inspection and other means;

IN ORDER to eliminate atomic weapons from national armaments without prejudice to subsequent elimination of other weapons adapted to mass destruction, to place the use and development of atomic energy for civilian purposes under United Nations control, and to assure the carrying out of these purposes;

The Parties to this Convention agree, as follows:

I. DEFINITIONS

1. For the purpose of this Convention:

a. *Fissionable material* includes U_{235}, uranium enriched in U_{235}, plutonium, and any other material capable of sustaining a nuclear chain reaction but does not include natural uranium.

b. *Source material* includes uranium and thorium metals, compounds and ores.

c. *An atomic weapon* is any appliance capable of utilizing, for the destruction of life or property, the explosive effects of the release of nuclear energy or the poisonous effects of fissionable materials or byproducts obtained from the release of nuclear energy.

d. *A nuclear power installation* is any installation capable of producing nuclear energy at a rate of over 10,000 kilowatts.

II. Prohibitions

2. *Universal Application of Prohibitions*—The Prohibitions in this section shall be regarded as rules necessary for the maintenance of international peace and security enforceable by the United Nations in respect to all States as provided in Article 1, paragraph 6, of the United Nations Charter.

3. *Use of Atomic Weapons Prohibited*—The use of atomic weapons for any purpose whatever is forbidden subject to the provisions of Article 42 of this Convention.

4. *Existence of Atomic Weapons Prohibited*—The possession, manufacture, import, or export of atomic weapons, or parts of such weapons, or of facilities or materials intended for the manufacture of such weapons, is forbidden.

5. *Nuclear Power Installations Temporarily Prohibited*—The establishment or operation of any nuclear power installation or other facilities containing or capable of producing fissionable materials in substantial quantities is forbidden until regulations supplementary to this Convention for the establishment of such installations or facilities and their distribution among the territories of the Parties to this Convention have been accepted in accordance with the provisions of Articles 13, 14 and 21 of this Convention.

6. *Unlicensed Operations Prohibited*—The mining, manufacture, import, or use of fissionable materials, or sources of fissionable materials, is forbidden except as operated or licensed by the Administrative Commission, as provided in Articles 16 and 18 of this Convention.

7. *International Monopoly of Fissionable Materials*—The operation of any installation for the production of fissionable materials in substantial quantities even after the expiration of the period re-

ferred to in Article 5 is forbidden, except by the Administrative Commission which shall have title to fissionable materials produced therein.

8. *Disposal of Existing Stock*—All atomic weapons in existence when this Convention comes into force shall be destroyed or disassembled under supervision of the Administrative Commission. All stocks of fissionable materials in existence when this Convention comes into force shall be transferred to the Administrative Commission for safe-keeping in appropriate parts of the world until their use is authorized by an establishment licensed by that Commission.

9. *Disposal of Existing Installations*—All installations or facilities forbidden by Article 5 of this Convention and in existence when the Convention comes into force, shall be placed in stand-by condition under control of the Administrative Commission until such time as they may be operated or their use may be licensed by that Commission in accordance with this Convention.

10. *Enforcement of Prohibitions*—Every State shall take appropriate measures to enforce these prohibitions within its jurisdiction and shall acquiesce in whatever measures may be taken by the United Nations or its agencies as provided in this Convention. It shall send copies of all laws and regulations on the subject to the Inspection Commission.

III. Atomic Energy Commission

11. *Constitution*—An Atomic Energy Commission shall be established at the seat of the United Nations. It shall consist of representatives of the members of the Security Council and Canada, when Canada is not represented on that Council, and shall be regarded as continuous with the Commission recommended by the resolution of the United Nations General Assembly on January 24, 1946.

12. *Procedure*—The Atomic Energy Commission may make recommendations to the Security Council or to the General Assembly by a majority vote of its entire membership and shall meet at least once a year.

13. *Functions*—The Atomic Energy Commission shall be

competent to recommend regulations supplementary to this Convention and modifications of this Convention as in its opinion new discoveries or inventions in the field of atomic energy make such changes necessary or expedient. It shall also recommend, as soon as possible, regulations which will permit the termination of the period mentioned in Article 5. Regulations for this purpose shall provide for the large-scale production of fissionable materials through the construction and operation of facilities in the territories of the parties to this Convention and through the resumption of operations in existing facilities; and for the establishment and operation by, or under license of, the Administrative Commission of nuclear power installations in the territories of the parties to this Convention.

14. *Coming Into Force of Regulations*—The Security Council shall consider recommendations of the Atomic Energy Commission and regulations so recommended, if supplementary to this Convention, shall come into force when approved by a vote of seven members including all of the permanent members of the Security Council. If the recommendation involves amendment of this Convention, it may be submitted directly to the General Assembly, or the Security Council may by a vote of any seven members submit it to the General Assembly for consideration according to the procedure set forth in Article 44 of this Convention.

IV. Administrative Commission

15. *Constitution and Procedure*—An Administrative Commission shall be established at the seat of the United Nations. It shall be composed of nine members no two of whom shall be nationals of the same State and shall function by majority vote of the entire membership.

16. *Selection of Members*—The members shall be selected by concurrent vote of the General Assembly and the Security Council of the United Nations from persons with expert qualifications in the field of atomic energy, nominated by the States parties to this Convention. A simple majority in each body voting independently shall be necessary to elect.

17. *Nominations*—Each State party to this Convention shall be

entitled to nominate three months before an election four persons, not more than two of whom shall be of its own nationality.

18. *Term of Office*—The members of the Administrative Commission shall be elected for nine years and may be reelected, but the members chosen at the first election shall be divided by lot into three classes to serve respectively for nine, six, and three years.

19. *Qualification of Members*—No member of the Administrative Commission may exercise any political or administrative function under any government and shall receive compensation from the United Nations, to be determined by the Security Council.

20. *Operational Functions*—The Administrative Commission shall have authority to own or operate mines producing uranium or thorium ores, installations for refining these ores, and facilities for the large-scale production of fissionable materials and nuclear power installations in so far as the establishment of such facilities and installations may be permitted in accord with Articles 13 and 14. The parties to this Convention agree that mines which constitute major sources of uranium or thorium ores and installations for refining their products shall be owned or operated by the Administrative Commission.

21. *Bureau of Nuclear Studies*—The Administrative Commission shall establish a Bureau of Nuclear Studies and shall appoint the members thereof from qualified persons from the States parties to this Convention. It may authorize the Bureau to operate a limited number of experimental nuclear power installations and to conduct other investigations in order to determine standards of design, operation, and inspection for such installations and to facilitate the activities of the Inspection Commission. It may authorize the Bureau to produce and distribute a limited amount of fissionable material for activities licensed as provided in Article 22 of this Convention. The Administrative Commission shall have title to all such installations and shall retain title to all fissionable materials which may be produced and distributed. It may authorize the publication of reports of the Bureau of Nuclear Studies and on the advice of that Bureau it may promulgate official standards, constants and definitions of nuclear science.

22. *Licensing Functions*—The Administrative Commission shall

have authority to license the operation of mines producing uranium or thorium, subject to Article 20; the conduct of experimental or medical activities using fissionable materials supplied by the Commission; the export or import of fissionable materials or sources of such materials; and the establishment and operation of nuclear power installations in accord with such regulations as may be issued under Articles 13 and 14.

23. *Regulations Concerning Licenses*—The Administrative Commission shall prepare detailed regulations within the policy set forth in this Convention and supplementary regulations under Articles 13 and 14, specifying the conditions under which licenses shall be issued including the qualifications of licensees and the size, quantity, and characteristics of permitted operations. These regulations shall come into force when approved by the Security Council as a procedural matter.

24. *Licensing of Experimental Work*—The regulations should require the automatic issuance of licenses for experimental work to laboratories which meet specified qualifications.

25. *Licensing of Industrial Operations*—The regulations may leave the Commission a measure of discretion in the issuance of licenses for the operation of mines, refining installations, and the export or import of fissionable materials or sources of such materials, giving consideration to the world requirements for fissionable materials for peaceful purposes, and other requirements of States which lack sources of fissionable materials within their territories.

V. Inspection Commission

26. *Constitution and Procedure*—An Inspection Commission shall be established at the seat of the United Nations. It shall be composed of fifteen members, no two of whom may be nationals of the same State and the members shall be selected, qualified, and compensated as provided in Articles 16, 17, 18 and 19 of this Convention. The Commission shall function by majority vote of its entire membership.

27. *Inspectors*—The Inspection Commission shall have authority to appoint permanent inspectors at all mines, installations, and facilities producing an important quantity of fissionable material

or sources of fissionable material, and to authorize inspectors to visit laboratories and plants using or producing fissionable material whether operated by the United Nations, by national governments, by local governments, or by private individuals. Inspectors should be appointed with such nationality and character that their position as officials responsible only to the Inspection Commission shall not be questioned for the particular service to which they are assigned.

28. *Surveys*—The Inspection Commission shall have authority to authorize aerial or other surveys to assure knowledge of new mines for the production of sources of fissionable material in any area where it has reason to think such mines may have been opened.

29. *Access by Inspectors*—The parties to this Convention shall permit access by inspectors authorized by the Commission to all mines, factories, and laboratories which in the opinion of the Commission may be engaging in atomic energy activities and to the air space in case an aerial survey is authorized.

30. *Reports*—The Inspection Commission shall report quarterly to the Security Council and shall make its reports public unless the Security Council by vote of any seven of its members, within a month after the submission of the report, declares publication inexpedient.

VI. Scientific Information

31. *Publication*—Publication of basic scientific information including experiments and discoveries shall be regarded as a fundamental freedom of individuals protected by the United Nations. No State shall prevent such scientific publication, especially in the field of atomic research.

32. *Scientific Ethics*—In order that atomic science may advance, research workers in this field shall be encouraged by the parties to this Convention to form international associations for exchanging information and for maintaining a code of ethics requiring prompt publication of scientific results.

33. *Scientific Associations*—The United Nations Educational Scientific and Cultural Organization may take appropriate measures to assist in the formation of such associations.

VII. Individual Offenses

34. *National Criminal Jurisdiction*—Each State shall provide in its criminal code for the punishment of individuals who commit any of the following acts and may exercise jurisdiction over such offenses wherever committed, provided the defendant is within its custody. Neither the official position nor the order of a government or a superior, except as provided in this Convention, shall free a defendant of responsibility for these acts, although these circumstances may be considered in mitigation of punishment.

a. *Possession of Atomic Weapons*—The possession, manufacture, import, or export of atomic weapons, of parts of such weapons, or of materials intended for the manufacture of such weapons.

b. *Prohibited Operations*—The establishment or operation of any nuclear power installation or other facility containing or capable of producing fissionable materials in substantial quantities, except for experimental purposes under authority of the Bureau of Nuclear Studies, or as licensed or operated by the Administrative Commission.

c. *Unlicensed Operations*—The mining, manufacture, import, export, or use of fissionable materials or sources of fissionable materials without license or authority from the Administrative Commission.

d. *Interference with Inspections*—Interference with the conduct of inspections under authority of the United Nations Inspection Commission and conveying of false information to inspectors or concealing atomic energy activities from inspection.

e. *Interference with Publication*—Interference with the publication of scientific information concerning atomic energy and fissionable materials.

f. *Conspiracy and Attempt*—Intentional participation in the above mentioned acts, conspiracy to commit any of these acts, and attempting or preparing to commit such acts.

35. *International Criminal Jurisdiction*—Any of the United Nations permanently represented in the Security Council may indict any individual before the United Nations Criminal Court for any of the acts mentioned in Article 34 of this Convention, and that

Court shall determine the penalty in accord with the law of the place where the act was committed, the law of the State of which the individual is a national, or the law of the indicting State whichever it deems most suitable.

36. *Surrender to United Nations Criminal Court*—An individual so indicted shall be surrendered to the custody of the United Nations Criminal Court by the State of asylum when requested by that Court.

37. *Constitution of United Nations Criminal Court*—The organization and procedure of the United Nations Criminal Court shall be that provided for the International Criminal Court under the convention of Geneva of November 16, 1937.

VIII. Enforcement

38. *Consideration by Security Council*—The Security Council shall promptly consider any report of the Inspection Commission indicating violations or evasions of this Convention and shall make recommendations thereon considering the matter a situation threatening the peace under Article 34 of the United Nations Charter.

39. *Procedure in Security Council*—If any Member of the United Nations charges a violation of this Convention, recommendations may be made by the Security Council under Articles 35 and 36 of the Charter on such a dispute without counting the votes of the disputing State, as provided in Article 27 of the United Nations Charter.

40. *Enforcement Measures*—The Security Council shall at once take the measures contemplated in Articles 39–42 of the United Nations Charter in case its recommendations are not promptly complied with.

41. *Self-defense*—If the Security Council is unable to decide upon appropriate measures for enforcing this Convention, the Members of the United Nations may exercise the inherent right of individual or collective self-defense in accordance with Article 51 of the Charter, until the Security Council has taken the measures necessary to maintain international peace and security. The failure of a Member to comply with a recommendation of the Security

Council may be regarded by any party to this Convention as an armed attack in the sense of Article 51 of the United Nations Charter.

42. *Emergency Use of Atomic Weapons*—The necessity of forcible action to maintain this Convention, whether in pursuance of a decision of the Security Council or in pursuance of the right of individual and collective self-defense, shall not abrogate this Convention. Such necessity shall not confer upon any State a right to manufacture atomic weapons unless in pursuance of an explicit authorization by the Security Council or in reprisal because of manufacture of atomic weapons in violation of this Convention; nor shall such necessity confer upon any State a right to use such weapons unless in pursuance of an explicit authorization by the Security Council or, if the Security Council fails to take appropriate measures, in reprisal because of use, or immediate danger of use, by another State in violation of this Convention.

IX. Amendments

43. *Proposal of Amendments*—Amendments may be proposed to the General Assembly by the Atomic Energy Commission, by the Security Council or by any party to the Convention.

44. *Coming Into Force of Amendments*—Amendments to the present Convention shall come into force for all States parties to the Convention when they have been adopted by a vote of two thirds of the members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two thirds of the States parties to the Convention, including all of the permanent members of the security Council.

X. Signature and Ratification

45. *Signature of Convention*—The present Convention shall remain open for signature on behalf of any Member of the United Nations and on behalf of any nonmember State to which a copy thereof is communicated for that purpose by the Security Council of the United Nations.

46. *Ratification of Convention*—The present Convention shall be

ratified by the signatory States in accordance with their respective constitutional processes. The ratification shall be deposited with the Secretary General of the United Nations who shall notify all the signatory States of each deposit.

47. *Coming Into Force of Convention*—The present Convention shall come into force among the ratifying powers upon the deposit of ratifications by the States permanent members of the Security Council and by Canada, Belgium, and Czechoslovakia. A protocol of ratifications deposited shall thereupon be drawn up by the Secretary-General of the United Nations who shall communicate copies thereof to all the signatory States. For any State signatory to the present Convention which ratifies it after it has come into force the Convention shall come into force on the date of the deposit of its instrument of ratification.

DRAFT CONVENTION OF THE CARNEGIE ENDOWMENT COMMITTEE ON ATOMIC ENERGY[1]

Introduction

International control of atomic energy is essential, both for security against its use in war and for assuring its use for peaceful purposes. This is now so generally admitted that it requires no argument. The question remains, however, as to the nature and extent of the international control to be established.

The Committee on Atomic Energy of the Carnegie Endowment for International Peace, composed of representative men drawn from scientific, political, and other fields, has devoted more than seven months to a study of this question. Its method of work was to delegate to three technical subcommittees the exploration of the problems involved in (1) the international inspection of radioactive mineral production, (2) the economic possibilities of atomic power, and (3) the question of international political control. The reports of these subcommittees were reviewed both in various preliminary stages and in their final form by the central Committee, which was in this way enabled to carry its studies farther than would have been possible otherwise.

The Legal Subcommittee, appointed to study the international political control of atomic power, held some twelve formal meetings since it began its work in December, 1945, besides many conferences among its own members and with other experts in the legal, political, and scientific fields. It cast its proposals in the form of a draft convention, not with any thought of anticipating the final terms of a treaty to be negotiated with governments, but as a realistic way of formulating both the political issues at stake and the suggestions for meeting them. Its report is offered as a contribution to the "informed public discussion" invited by the

[1] Originally published and distributed in June, 1946.

Secretary of State in his Foreword to the State Department's "Report on the International Control of Atomic Energy," published by the Department of State on March 16, 1946.

While the draft Convention was accepted by most of the members of the central Committee, some of the members, as well as two members of the Legal Subcommittee, were in favor of the international ownership of the radioactive materials and plants. The Subcommittee's proposal, however, rests upon a different appraisal of the feasibility of international inspection of radioactive materials than that of the Board of Consultants to the Secretary of State's Committee on Atomic Energy. The Legal Subcommittee's plan accepts as a premise the conclusion reached in the Report of the Carnegie Endowment's Subcommittee on Inspection of Raw Materials, published in February, 1946, that international technical inspection of such materials is sufficiently feasible to justify the establishment of a control system. The draft Convention also accepts the principle of national ownership as set forth in the McMahon Committee's "Bill for the Development and Control of Atomic Energy" (S-1717); but it provides an optional clause by which any nation may invite the International Commission to step in and take over both its raw materials and plants.

It would be impracticable to suggest any plan for international control not closely related to the existing United Nations organization, of which most of the States of the world are members. The draft Convention is therefore built upon the Charter of the United Nations. It would supplement the provisions of the Charter. It would be adopted by the General Assembly and the Security Council, and open to signature by all Members of the United Nations, as well as by other invited States.

GENERAL PURPOSES

The general purposes of the draft Convention, set out in a preamble, are to provide for all peoples security against the use of atomic weapons, to assure to all peoples the advantages of the use of atomic energy for peaceful purposes, and to organize both international and national cooperation for achieving these ends.

PROHIBITION OF ATOMIC WEAPONS

The draft Convention declares, as principles of general international law intended to be binding upon all States, definite prohibitions as to the production and use of atomic weapons (Chapter I). It is true that such prohibitions in the past, for example with respect to poison gas and submarines, have been of somewhat doubtful value. Yet it is thought that even where they do not deter, they may afford useful standards for judging State conduct. They are not left to stand by themselves, but machinery for their implementation is also suggested.

The prohibitions suggested would be subject to such exceptions as might be authorized by the Security Council in aid of action which it may take to maintain international peace and security. Any violation of the prohibitions might be found by the Security Council to be a threat to the peace, in which case Chapter VII of the Charter would empower the Security Council to follow up with the measures necessary.

If any State should make an unauthorized use of atomic weapons, until action could be taken by the Security Council all States parties to the Convention would be obligated to retaliate in exercise of the "right of individual or collective self-defense" provided for in Article 51 of the Charter.

ORGANIZATION

The draft Convention would provide (Chapter II) for an International Atomic Energy Commission, vested with wide powers of control and charged with the positive function of promoting the utilization of atomic energy for peaceful purposes. Each of the five States permanent members of the Security Council would select one member of the International Commission (with an alternate), and four members and four alternates would be selected by the General Assembly. Organized so that it could function continuously, the International Commission would create its own staff, and it would be authorized to maintain the necessary offices, laboratories, and plants for its work. Its decisions would be taken by a simple majority vote. The International Commission would be assisted by an advisory Board of Scientific and Technical Experts.

To facilitate the work of the International Commission, each State would set up a national commission with power to regulate all activities in the national territory connected with the production of atomic energy. Monthly reports would be made by each national commission to the International Commission.

GENERAL FUNCTIONS OF THE INTERNATIONAL COMMISSION

The positive functions of the International Commission would need to cover a wide range (Chapter III). It would lay out programs of research and development, to be carried out both by itself and by national agencies; it would make geological surveys to determine the existence of source materials; it would serve as the world's clearing-house for information; and in close cooperation with agencies of the United Nations it would initiate and conduct special studies. It would make periodical reports both to the General Assembly and the Security Council, all such reports being made public.

Other functions of the International Commission would relate to its supervision and control of national activities, with a view to assuring strict compliance with the provisions of the Convention. The Subcommittee has appreciated the difficulties inherent in any system of international inspection. Yet no practicable plan for international control can escape the necessity for some measure of inspection and investigation. The Convention as drafted faces this necessity, but it seeks to restrict such activities of the International Commission and to subordinate them to its more positive functions. National cooperation is of course requisite in such activities, and each national commission would appoint assessors to take part in inspections within its territory.

MEASURES OF CONTROL

Mining. It seems unnecessary and in certain cases impracticable to vest in the International Commission the ownership of all deposits of uranium and thorium, or to give to it a monopoly of mining these source materials, especially when they occur as byproducts. Yet a State may desire to move in this direction, and it should have this option. If the option is not exercised, ample powers of inspection must be conferred on the International Com-

mission, and in certain regions the inspection should be continuous.

Production of Concentrates. Similarly, the International Commission should have power to take over, in agreement with the State concerned, the operation of plants and facilities for the production of concentrates of source materials. In the absence of such an agreement a State should permit such production only by its national commission directly, or under a license issued by its national commission. The draft Convention would permit the International Commission to inspect such plants or facilities, it would restrict the production to quotas fixed by the International Commission and it would provide for the international distribution of such concentrates for peaceful purposes. It would also make regulations for the storage and movement of source materials within a country. Moreover, any private licensee would be required to sell the concentrates produced to the national commission, and the latter would be permitted to transfer them only to the International Commission, or with its authorization to a national commission of another State.

Production of Fissionable Materials. Moving on to the stage at which concentrates are converted into fissionable materials, the danger increases and controls should be more rigid. Again, the International Commission should have power to take over, at the option of the State concerned. If that option is not exercised, the State should have no plants for the production of fissionable materials without the authorization of the International Commission, and even with that authorization its plants should be operated directly by the national commission. The International Commission should have ample powers of inspecting such plants, and production should be limited to the quotas which it would fix from time to time. All fissionable materials produced should be denatured promptly, unless the International Commission authorized otherwise. The national commission would be permitted to transfer fissionable materials, whether or not denatured, only to the International Commission, or with its authorization to a national commission of another State. To make possible their use for peaceful purposes, however, a national commission might lease denatured materials to industrial or research establishments, the

activities of which would be subject to inspection by the International Commission.

In order to insure an equitable international distribution, the International Commission would, after satisfying its own requirements and those of private and governmental agencies engaged in research and developmental activities, distribute the remaining fissionable materials in its possession among the national commissions in proportion to their needs as established in the yearly estimate made by the International Commission.

If the Security Council should authorize a State to possess plants exclusively suited for using fissionable materials for the production of atomic weapons, continuous inspection of such plants by the International Commission would clearly be necessary.

PROCEDURE IN CASE OF INFRINGEMENT

An international convention does not execute itself. Its provisions are only of such value as States assign to them, and the good faith of States is always requisite. Yet it seems necessary to envisage some procedure for the not impossible contingency of an infringement (Chapter V).

The draft Convention would provide for an investigation by the International Commission whenever any State alleged an infringement by another State, or whenever the Commission itself had any reason to suspect that an infringement had occurred or was about to occur. The International Commission would ask the State involved to supply explanations and it might proceed to a special investigation on the spot. As promptly as possible, it would make a report to the Security Council, evaluating the gravity of the situation, and recommending possible action to be taken. Such reports would be published.

The International Commission might also notify States parties to the Convention of a pending investigation, and each such State would thereupon be obligated to take provisional measures. Once an infringement was found to have taken place, the International Commission might also readjust quotas of fissionable materials which it had previously fixed for other States.

If a State not a party to the Convention should create obstacles,

this fact also would be reported by the International Commission to the Security Council, which would then take such action as it deemed necessary under the provision of Chapter VII of the Charter.

TRANSITIONAL PROVISIONS

In proposing a plan of such far-reaching implications, it is necessary as a practical matter to take account of the existing situation, in which the progress made in the control of atomic energy has been largely due to the initiative of only a few States. With the expenditure of vast effort and resources, a small number of States, and particularly the United States, have taken the lead in demonstrating the practical application of scientific discoveries. These States therefore hold positions of decided advantage in this regard, and with questions of national defense involved, they will naturally be reluctant to forego that advantage in favor of any plan of general international control unless they are convinced not merely of its practicability but also of its prospect for successful operation. In short, they wish to have definite and unmistakable guarantees of their security.

The terms of reference of the United Nations Commission on Atomic Energy (see page 334) meet this situation in their provision for transitional stages in the development of a system of international control. These terms of reference, originally agreed upon in the Three-Nation Declaration on Atomic Energy on behalf of the United States, Great Britain, and Canada, and signed at the White House on November 15, 1945, by President Truman, Prime Minister Attlee, and Prime Minister King, were also accepted later by Soviet Russia in the Moscow Conference of December, 1945.

Mindful of the fact that these terms of reference still stand as the only directive before the United Nations, and of the consequent need to make provisions for such transitional stages an integral part of any system for the international control of atomic energy, the Legal Subcommittee has included in its draft Convention transitional dispositions (Chapter VI) which fix successive stages for the operation of certain of its provisions. Even with the Con-

vention in force, a party to it would be obligated to comply with these provisions only as the stages are reached. As a preliminary to any system of inspection, there would be a geological survey to ascertain the amount and the location of source material deposits. When this survey had been formally certified, the next two steps could be taken: the inspection of mines and of plants for producing concentrates of source materials, and the fixing of quotas for production of concentrates. After these two operations had been successfully in force over a period of x months, would come the fixing of quotas for and the inspection of the production of fissionable materials. Finally, after a similar x-months' interval would come the inspection of plants for the production of atomic weapons.

This same escalator is used for the operation of the draft Convention's provisions concerning a State's disclosure of information: at the first stage, information as to its mines and plants for the production of concentrates; at the second stage, information as to technical methods of producing, denaturing, and utilizing fissionable materials; and only at the third stage, information concerning atomic weapons in its possession and plants for producing them. Special provision is made concerning the continuance of production already begun and the continued possession of weapons or of plants for producing them.

Obviously, a considerable period of time would thus elapse before the transition would be completed. Negotiation of the Convention itself would take time, and the ratifications required to bring it into force would inevitably involve some delay. Each of the stages would require further intervals, so that the provisions of the Convention would be in full operation only after several years have passed.

It may be that in pursuance of the terms of reference of the United Nations Commission on Atomic Energy (quoted on page 334), the Commission may wish to put into effect a scheme of its own without waiting for ultimate agreement on such a full regime as that provided for in the draft Convention. A gradual experimental development of the feasibility of international cooperation in the control of atomic energy might well result in shortening the several transitional periods which must elapse before

sufficient confidence is created among the nations to put the full plan into effect.

FORMAL PROVISIONS

The entry into force of the Convention would require ratifications to be deposited by a majority of the signatory States, and the majority would have to include all of the permanent members of the Security Council as well as other named States which control significant deposits of uranium or thorium. Provision is also made for amending the Convention after its entry into force.

TEXT OF DRAFT CONVENTION

The signatory States, desiring

to provide for all peoples security against the use of atomic weapons,

to assure to all peoples the advantages to be derived from the control of atomic energy and its use for peaceful purposes, and

to organize and direct the cooperation of international and national agencies for the achievement of these ends,

Agree to the following Convention:

Chapter I—Principles of International Law and Their Implementation

Article 1

The signatory States declare the following to be principles of general international law:

(a) The production, the possession, and the use of atomic weapons are prohibited, except as authorized under Articles 2 and 4 of this Convention.

(b) The possession and the operation of plants which are exclusively suited for the production of atomic weapons are prohibited, except as authorized under Article 2 of this Convention.

(c) The conduct of research and experimentation with respect to the military application of atomic energy is prohibited, except as authorized under Article 2 of this Convention.

(d) Each State has a duty to refrain from any violation of these prohibitions, and to take all the necessary legislative, administrative, and police measures for the enforcement of these prohibitions within its territory.

Article 2

1. For the maintenance of international peace and security in accordance with the provisions of the Charter of the United Nations and subject to such general regulations as may be adopted,

the Security Council may give specific authorization to any signatory State

(a) to conduct, or to license the conduct of, research and experimentation with reference to the military application of atomic energy;

(b) to possess, to operate, or to license the operation of, plants which are exclusively suited for the production of atomic weapons;

(c) to produce, or to license the production of, atomic weapons; or

(d) to possess atomic weapons.

2. In aid of action under Chapter VII of the Charter of the United Nations,[1] the Security Council may give specific authorization to any signatory State to use atomic weapons.

Article 3

A failure by any State to comply with the principles set forth in Article 1 may be found by the Security Council to be a threat to the peace, or a breach of the peace, and the Security Council may make recommendations or decide what measures shall be taken to maintain or restore international peace and security, in accordance with the provisions of Chapter VII of the Charter of the United Nations.[1]

Article 4

Subject to the provisions of Article 51 of the Charter of the United Nations,[2] the signatory States undertake to retaliate, immediately and with all the means at their disposal, against any State which resorts to the use of atomic weapons without a specific authorization of the Security Council.

Chapter II—Organization

A. International Atomic Energy Commission

Article 5

1. An International Atomic Energy Commission is hereby

1 For text of Chapter VII of the Charter, see Annex, pages 436–8.
2 For text of Article 51 of the Charter, see Annex, page 438.

established under the authority of the United Nations, to control the production, the distribution, and the utilization of source materials[3] and of fissionable materials,[4] and to promote the utilization of atomic energy for peaceful purposes, as provided in this Convention.

2. The International Commission shall be composed of nine members, who shall serve for three-year terms, and who may be selected to succeed themselves.

3. Each State which is a permanent member of the Security Council shall select one member of the International Commission, and an alternate with power to act for the member when he is absent. Four members of the International Commission, and four alternates, shall be selected by the General Assembly. Vacancies shall be filled in the same manner as the original selection.

Article 6

1. The International Commission shall adopt its own rules of procedure, including the method of selecting its President.

2. The Commission shall be so organized as to be able to function continuously, and the members of the Commission shall be bound, unless they are on leave or prevented from attending by illness or other serious reason duly explained to the President, to hold themselves permanently at the disposal of the Commission.

3. Each member of the International Commission shall have one vote.

4. Decisions of the International Commission shall be made by a majority of the members present and voting.

Article 7

1. The International Commission shall establish a Board of

[3] As the term is used in this Convention, "source materials" include uranium, thorium, and any other materials which the International Commission declares to be peculiarly essential to the production of fissionable materials.

[4] As the term is used in this Convention, "fissionable materials" include plutonium, uranium enriched in the isotope 235, any other material which the International Commission declares to be capable of releasing substantial quantities of energy through nuclear chain reaction of the material, and any other material artificially enriched by any of the foregoing. It does not include "source materials."

Scientific and Technical Experts to act in an advisory capacity and to be consulted on scientific and technical matters.

2. The Board shall consist of fifteen members, of whom not more than two may be nationals of the same State.

3. The members of the Board shall be elected by the International Commission for six years and may be reelected; provided, however, that of the members elected at the first election, the terms of five members shall expire at the end of two years and the terms of five more members shall expire at the end of four years.

4. Before each election of the members of the Board, the International Commission shall consult competent scientific and technical bodies, national and international.

Article 8

1. The International Commission may set up such committees and agencies, and it may maintain such offices, laboratories, and plants, as it may deem necessary for the exercise of its powers under this Convention.

2. The International Commission may appoint its own staff, both technical and administrative.

3. The expenses of the International Commission shall be borne by the United Nations, in such manner as shall be decided by the General Assembly of the United Nations.

Article 9

1. The International Commission shall possess full juridical personality in the territory of each of the signatory States and, in particular, it shall have capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to conduct research and developmental and commercial activities; and

(d) to institute legal proceedings.

2. The International Commission shall have immunity from every form of judicial process.

3. The premises of the International Commission shall be inviolable; its property and assets shall be immune from seizure and

from all interference by national authorities and shall be exempt from all taxation.

4. The members of the International Commission, their alternates, and the staff of the International Commission, when engaged on the business of the Commission, shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.

B. NATIONAL ATOMIC ENERGY COMMISSIONS

Article 10

1. Each signatory State agrees to establish a national atomic energy commission to regulate, subject to the control and supervision of the International Commission provided for in this Convention, all activities within its national territory connected with the production and utilization of source materials and of fissionable materials, and to facilitate the work of the International Commission within its territory.

2. Each national commission shall transmit to the International Commission monthly reports, promptly and in such form and detail as may be prescribed by the International Commission, concerning all activities within its national territory connected with the production, movement, and utilization of source materials and of fissionable materials.

3. The International Commission may request a national commission to supply any supplementary particulars or explanations in regard to its reports.

Chapter III—General Functions of the International Commission

A. RESEARCH AND DEVELOPMENT

Article 11

1. The International Commission shall establish programs of research and development to promote scientific and technical progress in the field of atomic energy, particularly with respect to

(a) nuclear processes;

(b) the theory and production of atomic energy;

(c) the utilization of fissionable and radioactive materials for medical, biological or health purposes;

(d) the utilization of fissionable and radioactive materials for industrial purposes; and

(e) the location and treatment of ores.

2. The International Commission may engage directly in such activities, and for this purpose it may maintain the laboratories and plants which it may deem to be required. Such laboratories and plants should, so far as may serve the purposes of the International Commission, be located in various countries and in different parts of the world.

3. Each signatory State agrees to permit the International Commission to maintain and operate such laboratories and plants in its territory, and to facilitate their use by the International Commission for research and developmental purposes.

4. The International Commission shall also encourage and lend aid to the conduct of national research and developmental activities by governmental and private agencies, and to this end it shall make available to them the appropriate quantities of fissionable materials and of radioactive byproducts.

B. SURVEYS

Article 12

1. A general survey of deposits of source materials shall be conducted by the International Commission as soon as possible after its establishment. To facilitate such survey, each signatory State agrees to transmit to the International Commission, within three months after its inaugural meeting, all information in its possession with respect to the known deposits of source materials and the effort being made to discover additional deposits.

2. The International Commission shall have power to conduct geological surveys within the territory of any State, for the purpose of ascertaining the existence, the location, and the content of deposits of source materials.

3. Each signatory State agrees to assist the International Commission in the conduct of such surveys, and to supply all relevant

information which may be available, and to permit access for the purpose to any part of its territory by any means, including access by air.

C. DISSEMINATION OF INFORMATION

Article 13

1. Each national commission shall assemble the basic scientific information and the related technical information available within the national territory with respect to the production and utilization of atomic energy, and it shall include such information in its monthly reports to the International Commission.

2. The International Commission shall arrange for the periodical publication of all information available to it, with respect to the production and utilization of atomic energy.

D. ECONOMIC AND SOCIAL USES OF ATOMIC ENERGY

Article 14

In cooperation with the Economic and Social Council of the United Nations, the International Commission may initiate and conduct studies of the economic and social effects of the utilization of atomic energy, and it may make recommendations on this subject to the signatory States, to the General Assembly, and to any specialized agencies concerned.

E. MILITARY APPLICATION OF ATOMIC ENERGY

Article 15

1. The International Commission shall from time to time consult with the Military Staff Committee of the Security Council, with reference to the activities of the Commission.

2. In cooperation with the Military Staff Committee of the Security Council, the International Commission may initiate and conduct studies with respect to the military application of atomic energy, and it may make recommendations on the subject to the Security Council.

F. PERIODICAL REPORTS

Article 16

1. The International Commission shall submit an annual report

to the General Assembly and a quarterly report to the Security Council, concerning its activities under this Convention.

2. All such reports by the International Commission shall be published immediately.

3. Each signatory State agrees to give immediately full publicity within its territory to the reports of the International Commission.

G. CONDUCT OF INSPECTIONS

Article 17

1. The International Commission shall adopt general regulations concerning the conduct of the inspections provided for in this Convention, and the techniques to be employed.

2. Each signatory State agrees to issue to the officials of the International Commission such credentials as may be necessary for the carrying out of inspections.

3. Each national commission shall appoint one or more assessors who shall be constantly at the disposal of the International Commission for facilitating the work of its officials within the national territory. Assessors shall be entitled to accompany the officials of the International Commission on inspections within the national territory.

4. The officials of the International Commission shall not give orders to the local authorities. The assistance which may be needed from these authorities shall be requested through the intermediary of the assessors, who shall be provided with the necessary powers for this purpose.

5. Neither the International Commission nor its officials may make any disclosure of trade secrets revealed by an inspection, such as those relating to technical details of the production processes, production costs, profits, financial arrangements, and selling methods. The International Commission shall adopt regulations for hearing complaints concerning alleged disclosures.

CHAPTER IV—MEASURES OF CONTROL

A. MINING

Article 18

1. In agreement with the State in whose territory a deposit of

source materials is located, the International Commission may acquire such deposit, and engage directly in mining it or license the mining of it under regulations for accounting and inspection and for purchase by the International Commission of all source materials produced.

2. The International Commission shall have power to inspect mines in the territory of any State, for the purpose of ascertaining the quantity and content of source materials which are being or may be extracted.

3. The International Commission shall provide for continuous inspection of all mining in each region in which significant deposits of source materials are known to exist, and it shall maintain a regional office there for this purpose.

4. Each signatory State agrees to facilitate the inspection by the International Commission of mines in its territory, and to see that no impediment is placed in the way of such inspection. To this end, each signatory State shall require operators of all mines within its territory to keep such records as the International Commission may prescribe, with respect to the reserves, extraction, stockpiles, movement, and sales of source materials. These records shall be open to the International Commission.

B. PRODUCTION OF CONCENTRATES OF SOURCE MATERIALS

Article 19

1. The International Commission may maintain, operate or license in the territory of any State with the agreement of that State, facilities and plants for the production or segregation of concentrates of source materials.[5]

2. Each signatory State agrees to permit the production of concentrates of source materials within its territory only by the International Commission, or by its national commission, or under a production license issued by its national commission, and in the last case to require compliance with the terms of the license.

3. The International Commission shall make for each country

[5]As the term is used in this Convention, "concentrates of source materials" include source materials in such concentration and in such form as the International Commission may by regulation determine from time to time.

a yearly estimate of the quantity of concentrates of source materials needed to assure an adequate supply for peaceful uses and for such uses as have been authorized by the Security Council under Article 2 of this Convention, and it shall fix from time to time a maximum production quota for each State which possesses facilities or plants for the production of such concentrates, and shall provide for the international distribution of such concentrates for peaceful purposes.

4. Each signatory State agrees to restrict the total amount of the production of concentrates of source materials by its national commission or under license issued by its national commission to the maximum production quota assigned to it by the International Commission.

5. Each signatory State agrees to require each holder of a production license to sell all his output of concentrates of source materials to its national commission, and to establish severe penalties for any failure to comply with this requirement.

6. Each signatory State agrees to require its national commission and each holder of a production license to conform to the regulations adopted by the International Commission with respect to the storage and movement of concentrates of source materials.

Article 20

1. The International Commission shall have power to inspect in the territory of any State any facilities or plants which are, or may be, adapted for the production of concentrates, for the purpose of ascertaining whether they are being used for the production of concentrates of source materials. Each signatory State agrees to facilitate such inspection in its territory, and to see that no impediment is placed in its way.

2. The International Commission shall assign one or more officials to each facility or plant used for the production of concentrates of source materials, and such officials shall be permitted to inquire into all activities of the facility or plant and to examine its books and records.

3. The International Commission shall make regulations for the storage and movement of source materials within a country.

4. Each national commission shall transmit to the International Commission monthly reports on the amounts of concentrates of source materials produced or acquired by it, and on its stockpiles of such concentrates.

Article 21

1. A national commission may transfer concentrates of source materials only to the International Commission or, with the specific authorization of the International Commission, to a national commission of another State.

2. Whenever the amount of concentrates in the possession of a national commission exceeds the estimate of its needs made by the International Commission under paragraph 3 of Article 19, the national commission shall immediately transfer the excess amount to the International Commission.

3. After satisfying its own requirements and the requirements of private and governmental agencies engaged in research and developmental activities, the International Commission shall distribute the remaining concentrates of source materials in its possession among the national commissions in proportion to their needs as established in the yearly estimate made under paragraph 3 of Article 19.

4. The International Commission shall adopt detailed regulations for the execution of this Article.

C. PRODUCTION OF FISSIONABLE MATERIALS

Article 22

1. The International Commission may maintain and operate, in the territory of any State with the agreement of that State, one or more plants for the production of fissionable materials from concentrates, or for the renaturing of fissionable materials after they have been denatured.[6]

[6] As the terms are used in this Convention, "denatured materials" include fissionable materials which have been rendered not readily convertible into explosive materials, and "renatured materials" include fissionable materials which have been reconverted into materials readily usable for the manufacture of explosive materials. These terms are subject to definition from time to time by the International Commission.

2. Each signatory State agrees to prohibit the construction within its territory of plants designed to produce or renature fissionable materials, except by the International Commission or with its authorization. In giving such authorization, the International Commission may prescribe the general specifications for the construction of each plant.

3. Each signatory State agrees that all plants in its territory which are adapted for the production or renaturing of fissionable materials and which are not maintained and operated by the International Commission, shall be operated directly by its national commission.

4. The International Commission shall have power to inspect in the territory of any State any plants which are, or may be, adapted for the production or renaturing of fissionable materials, for the purpose of ascertaining whether these plants are being used for such production or renaturing. Each signatory State agrees to facilitate such inspection in its territory, and to see that no impediment is placed in its way.

Article 23

1. The International Commission shall make a yearly estimate of the quantities of fissionable materials needed for peaceful uses and for such uses as have been authorized by the Security Council under Article 2 of this Convention, and it shall fix from time to time a maximum production quota for each national commission which possesses plants for the production of such materials.

2. Each signatory State agrees to restrict the total amount of the production of fissionable materials by its national commission to the maximum production quota assigned to it by the International Commission.

3. Except upon a specific authorization otherwise by the International Commission, each national commission shall denature as promptly as possible all fissionable materials produced in its plants, in accordance with regulations prescribed by the International Commission.

4. The International Commission shall assign one or more officials to each plant producing fissionable materials, and such

officials shall be permitted to inquire into all activities of the plant and to examine its books and records. Upon request of the national commission, the International Commission may authorize such officials to take part in the operation of a plant and to give assistance in the conduct of the plant's activities.

5. Each national commission shall conform to the regulations adopted by the International Commission with respect to the storage and movement of fissionable materials.

6. Each national commission shall submit to the International Commission monthly reports on the amounts of fissionable materials produced and on the amounts and stages of development of stocks in its possession.

Article 24

1. A national commission may transfer fissionable materials only to the International Commission or, with the specific authorization of the International Commission, to a national commission of another State.

2. Whenever the amount of fissionable materials in the possession of a national commission exceeds the estimate of its needs made by the International Commission under paragraph 1 of Article 23, the national commission shall immediately transfer the excess amount to the International Commission.

3. After satisfying its own requirements and the requirements of private and governmental agencies engaged in research and developmental activities, the International Commission shall distribute the remaining fissionable materials in its possession among the national commissions in proportion to their needs as established in the yearly estimate made under paragraph 1 of Article 23.

4. The International Commission shall adopt detailed regulations for the execution of Article 24.

D. LEASE OF DENATURED MATERIALS

Article 25

1. A national commission may lease denatured fissionable materials to industrial establishments, under conditions to be prescribed by the International Commission. Monthly reports of all

such leases shall be made by the national commissions to the International Commission.

2. The International Commission shall have power to inspect in the territory of any State any establishment which is engaged in the use of denatured fissionable materials. Each signatory State agrees to facilitate such inspection in its territory, and to see that no impediment is placed in its way.

E. RESEARCH AND DEVELOPMENTAL ACTIVITIES

Article 26

1. Each national commission shall make quarterly reports to the International Commission concerning the scope and character of the research and developmental activities carried on in the national territory by governmental or private agencies, with respect to the production and utilization of fissionable and radioactive materials.

2. The International Commission shall have power to inspect in the territory of any State any laboratories or plants for the purpose of ascertaining whether these laboratories or plants are engaged in such research or developmental activities. Each signatory State agrees to facilitate such inspection in its territory and to see that no impediment is placed in its way.

F. PRODUCTION OF ATOMIC WEAPONS

Article 27

1. Where the Security Council has authorized a signatory State to possess, to operate, or to license the operation of, a plant exclusively suited for the production of atomic weapons, the International Commission shall assign one or more officials to such plant for the purpose of ascertaining whether the conditions set by the Security Council are being complied with. Such officials shall be permitted freely to inquire and examine into all activities of the plant and to examine its books and records.

2. The International Commission shall have power to inspect in the territory of any State any plants which are, or may be, adapted for the production of atomic weapons or parts of atomic

weapons, for the purpose of ascertaining whether they are engaged in such production. Each signatory State agrees to facilitate such inspection in its territory, and to see that no impediment is placed in its way.

Chapter V—Procedure in Case of Infringement

A. INVESTIGATIONS

Article 28

1. The International Commission, when it is informed by any State of an infringement of any of the provisions of this Convention, or when it has other reasons to suspect that an infringement has occurred or is about to occur, shall at once proceed to an investigation of the situation. To this end, it shall invite the State within the territory of which the alleged or suspected infringement has occurred, to supply explanations.

2. The International Commission may, if it is deemed necessary, conduct a special investigation on the spot, and each signatory State agrees to facilitate such an investigation in its territory, and to see that no impediment is placed in its way.

3. The International Commission shall as soon as possible submit a special report informing the Security Council of the alleged or suspected infringement, of the explanations supplied by the State concerned, and of the steps taken by the International Commission to investigate the situation. The International Commission may include in the special report its evaluation of the gravity of the situation, as well as its recommendations for action by the Security Council, under Chapter VII of the Charter of the United Nations.[7]

4. Each such special report by the International Commission shall be immediately communicated to all the signatory States, and it shall be made public as soon as possible.

B. PROVISIONAL MEASURES

Article 29

Upon receipt of a notification that the International Commission

[7] For text of Chapter VII of the Charter, see Annex, pages 436–8.

is conducting an investigation with respect to an alleged or suspected infringement of the Convention, the signatory States undertake to suspend

(a) all export to the State concerned of source materials, of fissionable materials, and of machinery and appliances for the production of such materials;

(b) all transit through the territories under their jurisdiction of such materials, machinery, and appliances destined for the State concerned; and

(c) all transport on board vessels or airplanes registered in their respective territories of such materials, machinery, and appliances destined for the State concerned.

C. SPECIAL QUOTAS

Article 30

The International Commission may, when it has reached the conclusion that an infringement has occurred in the territory of any signatory State, proceed immediately to readjust the annual quotas assigned to any other signatory State under Articles 19 and 23 of this Convention.

D. OBSTACLES OFFERED BY STATES NOT PARTIES TO THE CONVENTION

Article 31

The International Commission may at any time bring to the attention of the Security Council, by means of a special report, the existence within the territory of a State not a party to this Convention of conditions which seem to offer obstacles to the realization of the purposes of this Convention; it may also make recommendations for action by the Security Council under Chapter VII of the Charter of the United Nations.[8]

Chapter VI—Transitional Provisions

Article 32

A signatory State shall not be required to permit in its territory

[8] For text of Chapter VII of the Charter see Annex, pages 436–8.

(a) inspection of mines, under Article 18, and inspection of plants for the production of concentrates of source materials, under Article 20, until the International Commission has certified that it has completed the general survey provided for in Article 12;

(b) inspection of plants for the production or renaturing of fissionable materials, of establishments using denatured fissionable materials, and of research and developmental activities, under Articles 22, 23, 25 and 26, until the International Commission has certified that it has established the quotas provided for in Article 23, and that the system of quotas and inspections provided for in Articles 19, 20 and 21 has functioned successfully for a period of (x) months;

(c) inspection of plants for the production of atomic weapons, under Article 27, until the International Commission has certified that the system of quotas and inspections provided for in Articles 22, 23, 24, 25 and 26 has functioned successfully for a period of (x) months.

Article 33

Each signatory State agrees to transmit to the International Commission all information it may possess

(a) with respect to the number, location, and capacity of the plants within its territory adapted for the production of concentrates of source materials, and with respect to its stockpiles of such concentrates, within (x) months after the inaugural meeting of the International Commission;

(b) with respect to the number, location, and capacity of the plants within its territory designed to produce or renature fissionable materials, and with respect to its stockpiles of such materials, within (x) months after the International Commission has issued the certificate referred to in Article 32 (a);

(c) with respect to technical methods of producing, denaturing, and utilizing fissionable materials, within (x) months after the International Commission has issued the certificate referred to in Article 32 (b);

(d) with respect to the number and nature of the atomic weapons, and the number, location, and capacity of the plants

exclusively suited for the production of such weapons, which were in its possession at the time of the issuance by the International Commission of the certificate referred to in Article 32 (c), within (x) months after that certificate has been issued.

Article 34

1. Until the first quotas have been established by the International Commission under Article 19, any signatory State may continue to produce concentrates of source materials in amounts not exceeding the amounts which it produced during the twelve months preceding the signature of this Convention.

2. Until the first quotas have been established by the International Commission under Article 23, any signatory State may continue to produce fissionable materials in amounts not exceeding the amounts which it produced during the twelve months preceding the signature of this Convention.

Article 35

1. A signatory State may continue to possess, without authorization by the Security Council under Article 2, any atomic weapons which are in its possession on the date of the entry into force of this Convention; but after the issuance by the International Commission of the certificate referred to in Article 32 (c), each signatory State shall destroy or transfer such of these atomic weapons as the Security Council may direct.

2. A signatory State may continue to possess, without authorization of the Security Council under Article 2, any plants exclusively suited for the production of atomic weapons which are in its possession on the date of the entry into force of this Convention; but after the issuance by the International Commission of the certificate referred to in Article 32 (c), each signatory State shall destroy such of these plants as the Security Council may direct.

Chapter VII—Formal Provisions

Article 36

1. Amendments to this Convention shall enter into force for all

States parties when they have been adopted by a vote of two thirds of the members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two thirds of the States parties, including all the States named in paragraph 3 of Article 37.

2. The conditions under which a State which is a party to the Convention but is not a Member of the United Nations may participate in the adoption of amendments shall be laid down by the General Assembly of the United Nations upon recommendation of the Security Council.

3. The International Commission shall have power to prepare and propose amendments to the Convention, through written communication to the Secretary-General of the United Nations, for consideration in conformity with paragraph 1 of this Article.

Article 37

1. This Convention shall remain open for signature on behalf of any Member of the United Nations, and on behalf of any nonmember State to which a copy thereof is communicated for the purpose by the Security Council of the United Nations.

2. The Convention is subject to ratification by the signatory States in accordance with their respective constitutional processes. The ratifications shall be deposited with the Secretary-General of the United Nations, who shall notify all the signatory States of each deposit.

3. The Convention shall enter into force upon the deposit of the ratifications of a majority of the signatory States, including Belgium, Brazil, Canada, China, Czechoslovakia, France, India, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. A protocol of ratifications deposited shall thereupon be drawn up by the Secretary-General of the United Nations who shall communicate copies thereof to all the signatory States.

4. For any State signatory to the Convention which ratifies it after it has entered into force, the Convention shall enter into force on the date of the deposit of its instrument of ratification.

ANNEX

CHARTER OF THE UNITED NATIONS

Chapter VII. Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including

rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory States in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security

Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any State are taken by the Security Council, any other State, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

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